

Meeting: Cabinet and Council

Date: 16 November 2021 and 9 December 2021

Wards Affected: All

Report Title: Gambling Act 2005 – Licensing Statement of Principles 2022 to 2025

Is the decision a key decision? Yes

When does the decision need to be implemented? 30th January 2022

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1. Proposal and Introduction

- 1.1 The Gambling Act 2005 requires Torbay Council, under its role as Licensing Authority, to review and publish a 'Statement of Principles' (*the Gambling Policy*), every three years. The Statement of Principles outlines the procedures that the Licensing authority intends to follow in discharging its statutory responsibilities under the Act. The current Statement was published on 30th January 2019 and therefore, it must be reviewed, consulted upon and re-published, on or before 30th January 2022.
- 1.2 Torbay Council are authorised to issue a 'Small Casino Premises Licence'. The Act and Codes of Practice issued under the Act with that regard, require Licensing Authorities who are authorised to issue a 'Small Casino Premises Licence' to include within their 'Statement of Principles' certain information. This includes information on how the '*Small Casino Premises Licence Application Process*' will be undertaken by the Council, including the 'greatest benefit test headline criteria' that will be applied to any applications received. The criteria for the greatest benefit test have been revised and simplified within this draft.
- 1.3 The draft 'Statement of Principles 2022-25' has been amended to include a number of changes, which have come about over the last three years through amendments to Regulations, Codes of Practice and Gambling Commission guidance, along with the changes highlighted in 1.2 above. In addition to this a few small changes have been made following the recent public consultation, which are included in **Appendix 3**.

2. Reason for Proposal and associated financial commitments

- 2.1 In accordance with the statutory requirement, as prescribed under Section 349 Gambling Act 2005, which requires that the Licensing Authority to publish a Statement and to review and re-publish the same, every 3 years. The Authority has

reviewed its current Policy, undertaken an 8 week public consultation and has prepared a draft 'Statement of Principles 2022-25' which is attached as **Appendix 2** to this report.

- 2.2 The proposals contained in this report will not commit the Council financially in any regard, other than routine staff costs which are drawn from existing budgetary resources. However, should the Authority to decide to launch a Casino Competition, then some additional funding will be required, though this possibility is not included within this report.
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3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

- 3.1 That the Gambling Statement of Principles 2022 to 2025 be approved.

Appendices

Appendix 1: Supporting Information and Impact Assessment
Appendix 2: Draft Gambling Statement of Principles 2022 to 2025
Appendix 3: Consultation analysis – Proposed amendments

Background Documents

Gambling Act 2005
[Gambling Act 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Licensing Statement of Principles 2019 to 2022
[Gambling Statement of Principles - Torbay Council](#)

Statutory Guidance issued under the Gambling Act 2005
[Guidance to licensing authorities - Gambling Commission](#)

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Torbay Council has a statutory responsibility under Section 349 of the Gambling Act 2005 (the Act) to review, consult and to re-publish its Licensing Statement of Principles (the Statement). In doing so it is following the guidance in what needs to be included within that Statement.</p> <p>The process of review, consultation and publication must be completed on or before 30th January 2022.</p>
2.	<p>What is the current situation?</p> <p>The Statement identifies how the Council will perform its role as Licensing Authority in relation to the licensing process for gambling premises, and Permits, issued under the Act.</p> <p>The Licensing Authority has no role regarding the administration and issuing of Operator and Personal Licences. These both fall to the Gambling Commission.</p> <p>The Statement is also required to include the procedures and criteria to be applied should the Torbay Council decide to launch a Small Casino Competition. These have been simplified, following legal advice.</p>
3.	<p>What options have been considered?</p> <p>No other options have been considered as this is a statutory requirement.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>The Statement ensures clarity as to how the Council will fulfil its role as the Licensing Authority and provides clarification and guidance to businesses and the public alike.</p> <p>Gambling premises are part of the UK culture, particularly in seaside locations, providing they are undertaken responsibly. This Statement assists business to function safely and within the law. It therefore helps to promote two of the priorities, namely thriving people and communities, and a thriving economy.</p>
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p>

	<p>One of the three licensing objectives is Protecting Children and other Vulnerable Persons from being Harmed or Exploited by Gambling. The Act and the Mandatory Conditions applied to premises exclude children from most gambling premises, and in premises where they are allowed, excludes them from all areas where higher category gaming machines are located. So effectively they are only allowed in what would be seen as 'seaside' arcades.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The Statement lays out how the Council will fulfil its role as Licensing Authority and provides clarification and guidance to businesses and the public alike on what would be expected on business operators. This includes tackling the issues of vulnerability with individuals with gambling problems. This is a shared responsibility with the Gambling Commission, who have this responsibility through a premises Operators Licence.</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No impact either positive or negative - neutral</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The holders of Premises Licences and future applicants are those that are more directly affected by this Statement. These are businesses and business operators that provide gambling by way of Amusement Arcades, Casinos, Betting and Bingo Premises.</p> <p>The Statement, however, looks to protect the public who may be affected by less reputable operators</p> <p>The following parties have been consulted by Torbay Council, prior to publication of the finalised 'Statement of Principles':</p> <ul style="list-style-type: none"> • The Chief Officer of Police. • One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area. • One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act. • Residents and businesses of Torbay. • Bodies representing existing gambling businesses in Torbay. • The Chief Officer of Devon and Cornwall Police. • The Chief Officer of Devon and Somerset Fire and Rescue Service. • Torbay and South Devon NHS Foundation Trust • Torbay Safeguarding Children's Partnership • Torbay Council: Planning and Community Safety Department

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| | <ul style="list-style-type: none">• SWISCo Highways Team• Safer Communities Torbay.• Facilities in Torbay assisting vulnerable persons.• Faith groups; via Torbay Interfaith Forum and the Street Pastors.• Brixham Town Council.• English Riviera BID• Torbay Economic Development Company trading as the Torbay Development Agency |
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Section 2: Implications and Impact Assessment

9.	What are the financial and legal implications? There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act, though appeals against Licensing Authority decisions do place some additional burden on resources. This is however the due process of law. There will be potentially some costs, should the authority consider undertaking a process with regard to the Small Casino Licence, however this draft statement does obligate the authority to start this process and that decision would need to be made separately.
10.	What are the risks? The risks are more associated with any failure to review and re-publish the Statement in time, as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Gambling Act 2005, which may lead to legal challenge against the Council and financial penalties being incurred. The risks associated with agreeing the Statement are minimal as it has been reviewed in line with regulatory requirements, which include full consultation and consideration of any comments that are received, as well as having been shared with a QC for his comments. These have been adopted within the revised statement.
11.	Public Services Value (Social Value) Act 2012 Does not apply
12.	What evidence / data / research have you gathered in relation to this proposal? Research and data have been compiled in relation to the Local Area Profiles, though this data is already in the public domain.
13.	What are key findings from the consultation you have carried out? This is included with Appendix 3.
14.	Amendments to Proposal / Mitigating Actions This is included with Appendix 3.

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups The Policy is a review of an existing Policy and therefore there is no change to impact of specific groups. Where there exists any potential for impact, this would generally be through the application process where there is the safeguard that any responsible authority or 'other person' may make representation. The four licensing objectives are also designed to ensure consideration of any impacts.		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	X (young people)		
People with caring Responsibilities			X
People with a disability			X
Women or men			X
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			X
Religion or belief (including lack of belief)			X
People who are lesbian, gay or bisexual			X
People who are transgendered			x

	People who are in a marriage or civil partnership		X
	Women who are pregnant / on maternity leave		X
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	X	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	X	
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None	
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None	