

DECISION-MAKER:	LICENSING COMMITTEE
	COUNCIL
SUBJECT:	TRIENNIAL REVIEW OF THE GAMBLING ACT 2005 STATEMENT OF LICENSING PRINCIPLES
DATE OF DECISION:	3 rd November 2021 (Licensing Committee) 17 th November 2021 (Council)
REPORT OF:	Executive Director Communities, Culture and Homes

<u>CONTACT DETAILS</u>			
Executive Director	Title	Communities, Culture and Homes	
	Name:	Mary D’Arcy	Tel: 023 8083 4611
	E-mail	mary.d’arcy@southampton.gov.uk	
Author:	Title	Licensing manager	
	Name:	Phil Bates	Tel: 023 8083 3523
	E-mail	Phil.bates@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
N/A	
BRIEF SUMMARY	
Section 349 of the Gambling Act 2005 requires the City Council, as licensing authority, to prepare and publish a statement of licensing principles (SLP) that it proposes to apply in exercising its functions under the Act. The Council adopted its first policy from January 2007. This policy must be reviewed at least every three years. The Gambling Commission require SLPs to be adopted by 31st January 2022.	
RECOMMENDATIONS:	
(i)	<u>Licensing Committee</u> That the Committee considers the draft Statement of Licensing Policy that went out to consultation as at appendix 1, the revisions made to it as at appendix 2 (as well as other appendices to the report) and recommend its adoption to Full Council.
(ii)	<u>Council</u> That Council with effect from 31 st January 2022 adopts the revised Statement of Licensing Policy as attached at Appendix 2 and subject to any amendment that may be made by the Licensing Committee (if appropriate).
REASONS FOR REPORT RECOMMENDATIONS	
1.	The Council has a statutory obligation to adopt, review and maintain a Statement of Licensing Principles (policy) in relation to the functions allocated to it under the Act.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	

2.	Not applicable, the Council is required to have a SLP by law.
DETAIL (Including consultation carried out)	
3.	Section 349 of the Act requires each licensing authority to prepare and publish a statement of principles that they propose to apply in exercising their functions under the Act.
4.	The Act provides for three categories of licence:- (a) Operating licences; (b) Personal licences; and (c) Premises licences
5.	The Gambling Commission issues operating licences and personal licences; and licensing authorities issue premises licences. This has the effect of placing on line gambling under the remit of the Gambling Commission, not the local authority.
6.	The main functions of licensing authorities under the Act are as follows: - <ul style="list-style-type: none"> • Licensing premises for gambling activities • Considering notices given for the temporary use of premises for gambling • Granting permits for gaming and gaming machines in clubs and miners' welfare institutes • Regulating gaming and gaming machines in alcohol licensed premises • Granting permits to family entertainment centres for the use of certain lower stake gaming machines • Granting permits for prize gaming • Considering occasional use notices for betting at tracks • Registering small societies' lotteries
7.	In May 2021 the Gambling Commission issued revised detailed guidance to licensing authorities on the manner in which they are to exercise their functions under the Act, and in particular, the principles they should apply in exercising their functions.
8.	From April 2016 the Gambling Commission has required operators to identify risks to the licensing objectives associated with premises, its operation and the location in which it is sited. Operators must produce a risk assessment for each premises – setting out mitigation in place or planned to be put in place to reduce risk to the licensing objectives. These requirements are set out within the Commission's Licensing Conditions and Codes of Practice ("LCCP").
9.	Failure to produce a premises risk assessment amounts to a breach of the operator's licence and could result in revocation of that licence. The need to produce a risk assessment means that operators should pay close attention to local risks or concerns identified by the Licensing Authority in its SLP document. The impact of these changes is an increased importance of the SLP.
10.	The vast majority of the SLP is prescriptive or flows from statutory guidance which is expected to be included in the document unless there is very good reason not to do so. The Council also has the benefit of Leading Counsel's

	opinion on a previous draft document to ensure it meets the statutory requirements.
11.	The City Council undertook consultation on the SLP between 5th July 2021 and 27th September 2021 in accordance with the Act and Regulations as well as the Council's own consultation requirements. A report summarising the responses is attached as appendix 2.
12.	Officers have provided comments on the consultation responses and this is attached to the report at appendix 3
13.	Minor amendments have been made to the original document consulted upon in light of comments from members of the licensing committee when they approved the document for consultation and from comments in the consultation responses. None of these amend the policy but provide more information that will assist in the licensing function. A list of these amendments is attached as appendix 4
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
14.	N/A
<u>Property/Other</u>	
15.	N/A
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
16.	Section 349 of the Gambling Act 2005.
<u>Other Legal Implications:</u>	
17.	The SLP sets out the factors which the Licensing Authority shall take into account, along with relevant statutory guidance, the Gambling Act 2005 and Regulations made thereunder when performing its licensing functions. It is important to note and reiterate that the Licensing Authority is unable to consider issues relating to morality or demand when determining premises licence applications.
18.	Public authorities, under the Equality Act 2010, have a legal obligation to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. An Equality Impact Assessment has not been carried out in this instance as the risks associated with the publication of this document on this duty are considered to be low.
RISK MANAGEMENT IMPLICATIONS	
19.	Failure to properly consult or adopt such a policy will leave decisions by the authority at risk of challenge. Failure to adopt the SLP leaves the authority unable to perform its statutory functions and therefore the risk is high in this regard.
POLICY FRAMEWORK IMPLICATIONS	

20.	The Gambling Act policy is one of the policy framework documents that is required to be considered and adopted by full Council on a triennial basis.
-----	--

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Statement of Licensing Principles 2022 to 2025 (SLP)
2.	Report summarising the consultation responses
3.	Officers' comments on responses
4.	List of amendments to the consulted copy of the SLP

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
---	------------

Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
--	-----------

Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	