

## Chichester District Council

### Alcohol and Entertainment Licensing Committee

23<sup>rd</sup> March 2016

### Council

17<sup>th</sup> May 2016

Gambling Act 2005 - The Council's proposed Draft Statement of Policy 2016 - 2019

#### 1. Contact(s)

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#### 2. Executive Summary

To introduce the Council's proposed Draft Statement of Policy under the Gambling Act 2005 for the period of 2016 – 2019 and seek approval for public consultation.

#### 3. Recommendation to Alcohol and Entertainment Licensing Committee

3.1 That the draft revised Statement of Policy for the period 2016 – 2019 for the Chichester district is approved for public consultation.

3.2 That authority be delegated to the Head of Housing and Environment Services to consider any representations arising from the consultation exercise and, provided the representations do not require significant amendments to the draft Policy, to recommend adoption to Council on 17 May 2016 (with minor amendments if considered appropriate) following consultation with the Cabinet Member for Environment.

3.3 In circumstances where significant amendments to the Policy are required that these are reported back to the Alcohol and Entertainment Licensing Committee for further consideration.

##### Recommendations to Council

3.4 That the Policy (as amended in accordance with 3.2 and/or 3.3 above) be approved and published.

## **4. Main Report**

### ***Background***

4.1 Section 349 of the Gambling Act 2005 (the 'Act') requires this Licensing Authority (the 'Authority') to prepare and publish a statement of licensing principles that it proposes to apply in exercising its various functions under the Act, commonly known as a 'Statement of Policy' (the 'policy'). It is expected that a number of specific matters are considered and determined within a policy, with the overriding intention being that the provision of betting and gaming within the district is provided in a manner that promotes the following three statutory licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Once formally adopted by the Authority, the policy has effect for a period of three years, although naturally is kept under review during this period so as to ensure that it remains suitable and adequately addresses any new or emerging issues that arise.

4.2 The current policy has had effect since 21<sup>st</sup> June 2013 following approval by Council. It has not been the subject of legal challenge or complaint and appears to have been well received by the community, businesses and partner organisations and therefore achieved its intention.

4.3 The current policy is due to expire at the end of 20<sup>th</sup> June 2016 and it has been necessary to undertake a review. Whilst undertaking the review, officers have carefully considered the content of the current policy specifically against the 5<sup>th</sup> edition of the statutory guidance issued by the Gambling Commission in September 2015. The Act requires that Licensing Authorities must have regard to this guidance.

## **5. Outcomes to be achieved**

5.1 Approval of a six week public consultation of the proposed revised policy for the Chichester district for the period 2016 – 2019.

5.2 Following public consultation, all responses received will be carefully considered and, where appropriate, further amendments may be made to the policy if felt necessary or appropriate. The date for approval and publication of the final policy is by no later than 20<sup>th</sup> June 2016 thus it is intended to be presented to Council for adoption on 17<sup>th</sup> May 2016.

## **6. Proposal**

6.1 When drafting the revised policy, officers have carefully considered legislative changes, case law and as referred to above the updated statutory guidance. The majority of proposed changes are as a result of changes to the statutory guidance, however there have been some legislative amendments which relate to the general

operation of the Act, for example in 2014 legislation came into effect that increased the stakes and prizes for certain categories of gaming machines.

6.2 The intention of the policy is to clearly set out the framework the Authority will generally apply to promote the three licensing objectives when making decisions on applications made under the Act.

6.3 In view of the time that has passed since the policy was last published, officers have made various general housekeeping amendments to the policy, such as changes to names or addresses of Responsible Authorities etc. In addition, where extracts from the previous statutory guidance had been quoted, these have been updated so they are consistent with the current statutory guidance. The substantive changes to the policy, along with specific points of which members should be aware, are summarised below:

- Paragraphs 2.2-2.5 - Information has been included with regards to the South Downs National Park and specific reference to the South Downs National Park Authority being a Responsible Authority for all applications submitted in relation to premises located within the area of the park.
- Paragraph 2.9 – The number and different types of gambling authorisations in place have now been included. This will assist the Authority in monitoring locally the provision and type of gambling across the district.
- Paragraphs 2.10-2.11 – Officers have given due consideration to the suggestion by the Gambling Commission that Authorities may wish to complete their own assessment of the local environment as a means of ‘mapping out’ the key characteristics of the local area. Given a number of factors, it is not felt necessary at the current time to undertake such an exercise; however this position will be kept under review.
- Paragraph 4.2 – The Authority is required to formally designate a body responsible for advising it about the protection of children from harm. The Authority proposes to continue to designate the West Sussex Local Safeguarding Children Board for this purpose.
- Paragraphs 5.3 – For clarity, the definition of an ‘Interested Party’ has been amended.
- Paragraphs 6.4-6.6 – Reference has been included to the ‘Primary Authority’ scheme run by the Better Regulation Delivery Office. A firm commitment has been made by this Authority to support the scheme.
- Paragraph 13.1 – The Authority historically passed a ‘no casino’ resolution under Section 166(1) of the Act. Whilst the current resolution has had effect, no approach has been made to the Authority by operators wishing to open a casino within the Chichester district. The proposal is to maintain the current stance and to continue with the ‘no casino’ resolution.

## **7. Alternatives that have been considered**

7.1 Other than procedural matters associated with the consultation exercise, no alternatives have been considered as the Authority is under a statutory duty to

prepare and publish a policy with respect to the exercise of its licensing functions under Section 349 of the Act.

## **8. Resource and legal implications**

8.1 There are no resource and/or legal implications raised by this report other than those set out within the body of this report.

## **9. Consultation**

9.1 When reviewing the Policy the Authority must consult those persons listed in Section 349(3) of the Act. These are:

- The Chief Officer of Police;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

A full list of all those to be consulted is shown at Appendix B of the policy.

9.2 In view of the proposed changes being made to the policy it is proposed to undertake a six week public consultation.

9.3 Following consultation (between 24<sup>th</sup> March 2016 and 4<sup>th</sup> May 2016) final approval of the policy will be necessary by Full Council. The policy will then be published and made available electronically via the Council's website.

## **10. Community impact and corporate risks**

10.1 There are no community impact and/or corporate risks raised by this report.

## **11. Other Implications**

11.1 The application of the Human Rights Act 1998 and its relevant Articles in particular, Article 6 (Right to a fair trial), Article 8 (Right to respect for private and family life) and Article 1 of the first protocol (Protection of property) will be considered by this Licensing Authority in the determination of applications. A determination on each application will be based on the Gambling Commission statutory guidance, the Act and any other matter governed by the Statement of Policy.

11.2 There are no equality issues raised by this report.

## **12. Appendices**

Draft Statement of Policy 2016 – 2019

## **13. Background Papers**

Gambling Commission Guidance to Licensing Authorities 5<sup>th</sup> Edition (September 2015)

Chichester District Council's Statement of Principles 2013 - 2016