

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO COUNCIL

19 DECEMBER 2018

REPORT OF THE HEAD OF LEGAL AND REGULATORY SERVICES

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

1. Purpose of report

- 1.1 The purpose of this report is to report the outcome of the three year review of the Gambling Statement of Principles, the framework which governs the way this authority undertakes its duties as the licensing authority for gambling. This matter was reported to Cabinet on 18 December 2018 but approval of the Statement of Principles for the next three year period from 2019 is a Council function.

2. Connection to corporate improvement objectives/other corporate priorities

- 2.1 There is no direct link to the Corporate Improvement Plan / Other Corporate Priority.

3. Background

- 3.1 The Gambling Act 2005 provides for a regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. The Gambling Commission was set up under the Gambling Act 2005 to regulate commercial gambling in Great Britain in partnership with licensing authorities as local regulators. The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the licensing objectives, and the full regulatory framework is set out at paragraph 4.2 below.

- 3.2 This licensing authority is responsible for:

- Issuing premises licences;
- Issuing permits which allow low stakes gambling in venues which are not primarily for gambling, for example, pubs;
- enabling societies to hold small lotteries;
- ensuring compliance and enforcement of the Gambling Act 2005 locally.

- 3.3 The Council, as licensing authority, is not responsible for the authorisation or enforcement of remote gambling e.g. online gambling.

- 3.4 The Council is required to publish a policy statement, known as the Statement of Principles every three years. The current document has been reviewed and a draft consultation undertaken. A copy of the draft Statement of Principles is attached at Appendix A. The reviewed elements are highlighted in red.

4. Current situation/proposal

4.1 The Act places a duty on the Council to develop a Statement of Principles that promotes the three 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.

4.2 The Council's Statement of Principles forms part of the framework outlined in Section 153 of the Gambling Act 2005 for how the licensing authority exercises its functions. Section 153 of the Act provides that a licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice under s.24 (A Gambling Commission function).
- in accordance with any relevant guidance issued by the Commission under s.25 (The statutory guidance issued to the authority by the Gambling Commission).
- reasonably consistent with the licensing objectives (subject to a and b above), which are prescribed in the Gambling Act 2005 (applicable to both bodies)
- in accordance with the licensing authority's statement of licensing policy (subject to a to c above) the Statement of Principles now under consideration in this report.

4.3 Analysis of complaints and intelligence received by the Council, since the last revision of the Statement suggested that no new trends or concerns had emerged during the last three years, either by sector or location. One of the enforcement concerns which had arisen is the siting of machines in takeaways and other shops, which is illegal and this resulted in a prosecution and cannot therefore be dealt with as a policy issue.

4.4 Therefore, no significant changes were made to the Statement of Principles. However, it follows the approach set out in the 5th Edition of the statutory Guidance issued by the Gambling Commission to licensing authorities referred to in paragraph 4.2.

4.4.1 This means that in the absence of any local factor or risk, this authority will follow the Gambling Commission's approach to regulating gambling as set out in the Guidance. It is important to recognise that whilst the authority must have regard to the Guidance in its decision making, the Guidance does not seek to fetter the discretion of the authority in dealing with applications or compliance.

4.4.2 Information relating to The Wellbeing and Future Generations (Wales) Act 2015 was included in the update as well as reference to the Chief Medical Officer for Wales whose annual reports highlight areas of emerging or underestimated public health importance. The latest report highlighted the relationship between gambling

and health. Whilst there is no specific policy impact at present, there may be developments which need to be addressed during the next three year period.

4.5 The consultation process is prescribed by regulations and includes the Chief Officer of Police, the Gambling Commission, one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses and one or more persons who are likely to be affected by the exercise of the authority's functions under the Act. This comprises elected Members, Town and Community Councils, Trade representatives, machine suppliers, safeguarding organisations (including problem gambling), the Public Service Board and Community Safety Partnership.

4.6 The consultation process involved placing the draft Statement of Principles on the Council's website and issuing notices of consultation on the statutory consultees and other parties referred to above. Consultation took place between 31 August 2018 and 9 November 2018.

4.7 The responses to the consultation are set out in Appendix B. The table comprises the body or person responding, the nature of the response and officer comments on the response.

4.8 There were three valid responses to the consultation which are set out at Appendix B to this report. The officer response at Appendix B explains where:

- issues have already been included in the draft Statement of Principles
- where the licensing authority does not have the power to address the issue raised
- where a proposed amendment is being put forward for consideration

4.8.1 Gamcare is the provider of information, advice, support and free counselling for the prevention and treatment of problem gambling. The response did not relate specifically to the Bridgend Statement of Principles and the reasons for not amending the document are included in Appendix B. However, there was a relevant issue which was not included in the original draft Statement of Principles:

4.8.2 Proposed amendment 1

Add the following to the risk assessment guidelines at paragraph 3.1

The risk assessment should include an assessment of the impact of any promotional material likely to encourage the use of the premises by children who are not allowed to access the premises.

Reason: to protect children and vulnerable persons from harm or being exploited by gambling

4.9 The Gambling Commission is the overall regulator of gambling in the UK. The response received relates to how the premises risk assessment is kept, and to the role of the local authority in issuing gaming machine permits in licensed premises.

4.9.1 The Gambling Commission has asked the licensing authority to consider recommending that best practice will be to retain a copy of the local risk

assessment on the premises. The local risk assessment is a document prepared by a premises licence holder which addresses how local risk factors will be mitigated. For example, how the location of the premises impacts on the licensing objectives, particular if it is near a school or other premises where young people attend. This is accepted as a valid amendment:

Proposed amendment 2

Paragraph 3.1 to include that **the licensing authority considers it best practice for a copy of the local risk assessment to be retained on the premises.**

Reason: to comply with the licensing objectives by enabling officers to inspect the document during compliance visits and to ensure local staff are aware of the document.

- 4.9.2 Paragraph 5.2 of the Statement of Principles outlines the approach to gaming machines on alcohol licensed premises. The current statement does not make it clear that the provisions set out at paragraphs 5.2.1 to 5.2.6 are the standards set out in the Gambling Commission statutory guidance.

Proposed amendment 3

At paragraphs 5.2.add the following:

The licensing authority will adopt the Gambling Commission statutory guidance in relation to notifications and permits in alcohol licensed premises.

Reason: to provide applicants and the existing trade with clear guidelines on the authorities approach to licensing.

- 4.9.3 Whilst not impacting on this policy review, Council is advised that, the Government has announced a changed to the stakes involved in gaming machines known as “Fixed Odds Betting Terminals” (FOBTs). FOBTs are electronic machines, sited in betting shops, which contain a variety of games, including roulette. The maximum stake on a single bet is £100, the maximum prize is £500. These machines have proved controversial, with concerns being raised that the machines have a causal link to problem gambling because of the large amount of money that can be lost in a short time. From April 2019, the maximum stake will be reduced to £2.00. (Source: UK Parliament Library Briefing paper 16 November 2018).

5. Effect upon policy framework and procedure rules

- 5.1 None.

6. Equality Impact Assessment

- 6.1 A full Equality Impact Assessment has not been undertaken as there are no implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation since the last revision of this document.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial implications

8.1 The cost of consultation and publication is met from existing budget.

9. Recommendation

9.1 Council is recommended to approve the Statement of Gambling Principles for the three year period 2019-2021, incorporating with the proposed amendments 1-3 referred to in paragraphs 4.8.1, to 4.9.2 above and to approve publication in accordance with the regulations.

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Background documents: Consultation responses

Gambling Commission Guidance to local authorities available
at:<https://www.gamblingcommission.gov.uk/PDF/GLA5.pdf>

Chief Medical Officer for Wales report
<https://gov.wales/docs/phhs/publications/cmo-report2017en.pdf>