

The Gambling Act 2005

Draft Statement of Licensing Principles Consultation

Licensing Committee

Date: 4 April 2018

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Wards: All
Parishes Affected: All

1. Purpose and Reasons

- 1.1 Section 349 of the Gambling Act 2005 requires that before each successive period of three years, the Licensing Authority prepares and publishes a Statement of Licensing Principles that it proposes to apply in exercising its functions under the Act during that three year period.
 - 1.2 The Statement of Licensing Principles forms the Licensing Authority's mandate for managing the local gambling provision and sets out how the Licensing Authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality.
 - 1.3 A Statement of Licensing Principles must be prepared and published for the next 3 year period. The Statement of Licensing Principles must undergo consultation prior to the final determination by full Council.
 - 1.4 A draft Statement of Licensing Principles is attached at **Appendix A** to this Report for consideration.
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2. Recommendations

That the Committee:

- 2.1 It is recommended that the Committee approve the draft Statement of Licensing Principles, Appendix A, and commence that statutory consultation process.

3.0 Detail

- 3.1 The Gambling Act 2005 (the Act) came in to full effect on the 1st September 2007. It created a new system of licensing and regulation for commercial gambling in England, Scotland and Wales. Amongst other changes, it gave Local Authorities new and extended responsibilities for licensing premises for gambling, some of which were transferred to the Local Authorities from the local Licensing Justices.

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3.2 The main functions given to Licensing Authorities are to:

- Licence premises for Gambling activities;
- Consider notices given for the temporary use of premises for gambling;
- Grant permits for gaming and gaming machines in Clubs and Miners' Welfare Institutes;
- Regulate gaming and gaming machines in alcohol licensed premises;
- Grant permits to Family Entertainment Centres for the use of certain lower stake gaming machines;
- Grant permits for Prize Gaming;
- Consider Occasional Use Notices for betting at tracks;
- Register Small Society Lotteries.

3.3 The Council's previous Statement of Licensing Principles was determined and adopted on 16th April 2015. A copy of this Statement is attached at **Appendix B** to this Report.

3.4 Whilst there have been no changes to the primary legislation since the first Statement of Licensing Principles was determined, the Gambling Commission has revised its Guidance to Licensing Authorities on several occasions.

3.5 A draft Statement of Principles has been prepared and is attached at **Appendix A** to this Report.

3.6 Prior to determining the new Statement of Licensing Principles, statutory consultation must be undertaken. The Act provides that the Licensing Authority must consult with the Chief Officer of Police, persons who represent the interests of persons carrying on Gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act. It is considered that a minimum 12 week consultation period is proportionate for this consultation.

3.7 The results of the consultation exercise will be presented to Members at a future Licensing Committee meeting for consideration prior to referral of the Statement of Licensing Principles to full Council for final determination.

4. Alternative Options

4.1 Should the Licensing Authority not adopt a Statement of Licensing Principles every three years following an appropriate period of consultation it would be determining applications and exercising its functions ultra vires.

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- 4.2 The Licensing Authority would further be liable to legal challenge by way of Judicial Review in the Administrative Courts.

5. Implications, Diversity Impact Assessment and Risk Management Financial and Procurement Implications

- 5.1 There is a cost associated with any consultation. However, it is proposed to minimise expenditure by consulting via electronic means where possible.
- 5.2 As the consultation is a statutory requirement, it must be undertaken by Swindon Borough Council and will be done using existing resources.

Legal and Human Rights Implications

- 5.3 A declaration has been made by the Secretary of State, that the Gambling Act is compliant with the Human Rights Act.
- 5.4 Determining the Statement of Licensing Principles is a statutory function that must be carried out by Swindon Borough Council and consultation must be undertaken prior to determining the final Statement of Licensing Principles.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.5 The consultation will be undertaken using existing staff resources.
- 5.6 There are no other implications associated with this report.

Diversity Impact Assessment

- 5.7 It is not considered that the preparation of a DIA is required in respect of this report.

5.5 Consultees

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

5.6 Background Papers

Gambling Act 2005

Gambling Commission's Guidance to Licensing Authorities (5th Edition)

Swindon Borough Council's Statement of Licensing Principles dated April 2015

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5.7 Appendices

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| Appendix A - | Swindon Borough Council's Draft Statement of Licensing Principles to go out for consultation |
| Appendix B - | Swindon Borough Council's current Statement of Licensing Principles dated April 2015. |