

WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 6TH NOVEMBER 2018
REPORT OF THE CORPORATE DIRECTOR OF PUBLIC PROTECTION PLANNING
AND GOVERNANCE

**ADOPTION OF THE WELWYN HATFIELD COUNCIL STATEMENT OF PRINCIPLES
UNDER THE GAMBLING ACT 2005**

1 Executive Summary

- 1.1 This report presents and asks Members to recommend adoption of the Council's Statement of Principles (Gambling Act 2005) for a 3-year period commencing 31st January 2019, as required by section 349 of the Gambling Act 2005. Once adopted the statement of principles will form part of the decision making process for Council Members and Officers when they are determining applications for premises licences and permits. The statement of principles will also be used by the Courts should they be asked to consider an appeal against a Committee decision. The statement of principles follows the prescribed statutory format and was the subject of a consultation exercise. The draft statement of principles was approved for consultation release by the Environment Overview Scrutiny Committee on 11th June 2018 and the Cabinet is now asked to recommend that the final policy is approved and forwarded on to Full Council for adoption.

2 Recommendation(s)

- 2.1 For the Cabinet to approve the Welwyn Hatfield Council statement of principles at Appendix 1 and recommend its adoption by Full Council for the next 3 years, commencing 31st January 2019.

3 Explanation

- 3.1 The Act established the Gambling Commission to regulate all commercial gambling in Great Britain (other than spread betting or the National Lottery). The Commission has an overriding obligation to pursue and have regard to the licensing objectives and to permit gambling so far as it thinks is reasonably consistent with them.
- 3.2 The Act gives licensing authorities a number of important regulatory functions in relation to gambling. These include licensing premises for gambling activities, regulating gaming and gaming machines in alcohol licensed premises, grant permits to family entertainment centres for lower stake gaming machines, grant permits for prize gaming and registering small society lotteries. They will also acknowledge Temporary use notices, receive occasional use notices and provide information to the Gambling Commission regarding details of licences issued.

- 3.3 In connection with the Gambling Act 2005 the Council is obliged to have regard to promoting the statutory licensing objectives contained in the Act, namely the prevention of gambling from being a source of crime or disorder, being associated with crime and disorder or 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. The Council statement of principles aims to set out in general terms what policy decisions the Council has taken to achieve this aim. The statement of principles is supported by the Act, statutory regulations and guidance.
- 3.4 A draft statement of principles was prepared and presented to the Environment Overview Committee on 11th June 2018. The Committee recommended that the policy be consulted upon and was duly released for consultation between 15th June and 10th August 2018.
- 3.5 The statement of principles is at Appendix 1 and a list of persons and organisations consulted is given in Appendix B.
- 3.6 The draft Gambling Act statement of principles received two responses although one was received after the end of the consultation. The first response at Appendix 2 was from Gamecare. This response was a generic response sent to all local authorities. The points raised relate to producing a risk map of our area to highlight both potential and actual risks around gambling venues. It has always been our intention to produce such a map which is a separate document to the policy and we are collating relevant information. The other points raised by Gamcare form part of our licensing inspection programme. Therefore no changes to the policy have been made.
- 3.7 The second response was from the Association of British Bookmakers through Gosschalks Solicitors at Appendix 3. The response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the AAB feels may need to be addressed.
- 3.8 The points raised have been listed at Appendix 4. Some required a slight change to wording which was agreed by members and the policy has been altered accordingly. Other changes requested that certain bullet points or paragraphs be removed. These policy changes were discussed by the environment overview and scrutiny committee and it was decided not to make these changes to the policy.
- 3.9 Accordingly the finalised policy is presented for Cabinet approval. Appendix 1. Broadly speaking the statement of principles sets out the principles Welwyn Hatfield Council proposes to apply in exercising its functions under the Gambling Act 2005 during each successive three-year period.
- 3.10 The Policy must be reviewed and re-adopted every 3 years; however it is recognised that extra-ordinary reviews may need to take place in response to case law, new guidance or changes in circumstances to which the policy relates.
- 3.11 Members are asked to note and agree the revised policy incorporating the changes as a result of the consultation and recommend the adoption of the statement of principles by Full Council.

Implications

4 Legal Implication(s)

- 4.1 Once adopted Welwyn Hatfield Borough Councils Statement of Principles together with the Act, regulations and statutory guidance will provide the initial basis upon which decisions under the Gambling Act 2005 are based, and considered during any appeal to the Magistrates Court. The statement of principles must be reviewed in three years' time, but may be amended sooner in response to a particular local need, case law or new legislation or guidance.
- 4.2 The Council is at risk of legal challenge if it does not have a licensing policy in place, has failed to review its licensing policy or if its policy does not take account of the Secretary of State's guidance issued under the Gambling Act.

5 Financial Implication(s)

- 5.1 None directly arising from this report. Consultation on policy development is a normal part of day to day work and allowed for in existing budgets.

6 Risk Management Implication(s)

- 6.1 Welwyn Hatfield Borough Council is required to have a statement of licensing policy made under the gambling Act 2005 which is reviewed every 3 years or in light of revisions to the guidance. The council is at risk of legal challenge if it does not have such a policy in place or if it is not kept up to date.
- 6.2 The policy has taken into consideration responses from the consultation and is scheduled to be published on time therefore any risk of challenge is low.

7 Security and Terrorism Implication(s)

- 7.1 The council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism, in the context of this report, there are no additional concerns.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

- 9.1 The proposal does not imply an increase in greenhouse gas emissions or water use. A limited number of paper copies will be produced as it will be made

available in electronic format. The proposal appears to be resilient to climate change and does not require adaptations to be made.

10 Human Resources Implication(s)

- 10.1 None directly arising from this report. Consultation on policy development is a normal part of day to day work and allowed for in existing budgets.

11 Health and Wellbeing Implication(s)

- 11.1 During the lifetime of this policy, it is our intention to consider local area profiles which will set out the local risks and concerns in relation to the licensing objectives. These will be available as map overlays in a GIS format. The council's regulatory approach to Gambling Act applications may be influenced by the type of premises and/or its position in the borough, for example known issues with problem gambling, the interaction between the night time economy and gambling and any crime patterns or anti-social behaviour linked to gambling may be taken into consideration. In addition the socio economic makeup of the area, density of gambling premises and specific types of gambling may also be considered.

12 Communication and Engagement Implication(s)

- 12.1 The policy is reviewed every three years and a consultation is carried out with the recipients in Appendix A. The policy was also placed in the WGC and Hatfield libraries and on the Councils website.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to the Council's Corporate Priority "maintain a safe and healthy community" and is linked to statutory requirements under the Gambling Act 2005.

14 Equality and Diversity

- 14.1 An EqIA was completed on 01/06/2006 and no negative impact was identified on any of the protected groups under Equalities legislation.

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Background papers to be listed (if applicable)

Gambling Act 2005

Appendices to be listed

Appendix 1 – Welwyn Hatfield Council Gambling Act statement of principles

Appendix 2 – Response from Gamcare

Appendix 3 – Response from the Association of British Bookmakers

Appendix 4 – Table of responses from the Association of British Bookmakers