

LICENSING AND SAFETY COMMITTEE

24 MARCH 2015

LICENSING ACT 2003

DRAFTING OF POLICIES FOR CONSULTATION

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Summary

The purpose of this report is to seek the approval of the Licensing and Safety Committee for officers to revise and draft the following policies for consultation, consideration and ultimate adoption by the Council:

- (1) Revisions to the Statement of Gambling Policy
- (2) Revisions to the Statement of Policy for SEV
- (3) Drafting of a new policy outlining the requirements of Taxi Licensing

1. Budget and Policy Framework

- 1.1 The Gambling Policy is a policy framework document. The existing Statement of Gambling Policy was approved at Full Council on 24 January 2013 and the SEV Statement of Policy on 18 October 2012.

2. Background

- 2.1 The purpose of this report is to seek the approval of the Licensing and Safety Committee for officers to draft the following policies:

- (1) Revisions to the Statement of Gambling Policy
- (2) Revisions to the Statement of Policy for SEV
- (3) Drafting of a new policy outlining the requirements of Taxi Licensing

3. Revisions to the Statement of Gambling Policy

- 3.1 The Gambling Act came fully into force in September 2007 although the "first appointed day" (when the Council could start to receive applications) was 31 January 2007. In preparation, each licensing authority was required to develop, consult on and publish a statement of its licensing policy. The existing statement sets out the principles,

which the authority applies in exercising its licensing functions under the Act.

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are: -

- 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.2 The Statement of Policy document along with the Gambling Act 2005 and the Objectives and Gambling Commission Guidance will all be referred to when considering applications in respect of the following:

- Premises licences (this includes casinos, bingo halls, adult gaming centres, family entertainment centres, race tracks and betting shops)
- Permits (licensed premises gaming machine permits, club permits, prize gaming permits, notification of two or less machines)
- Lotteries (small society lotteries, incidental non-commercial lotteries, private lotteries and customer lotteries)
- Temporary use notices and occasional use notices for short-term gambling events).

The Gambling Commission is responsible for granting operating licences and personal licences to commercial gambling operators and people working in the industry. It will also regulate certain lottery managers and promoters.

3.3 The draft policy will look to include any changes made both nationally and locally including the most fundamental review by the Gambling Commission of the guidance due to take place this year.

4. Revisions to the Statement of Policy for SEV

4.1 The Council approved the existing statement of policy in respect of sexual entertainment venues for use on 18 October 2012. This statement of policy is used when dealing with applications for sexual entertainment venues.

The powers the Council has to regulate sex establishments are contained in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. In order to be able to use these powers the Council adopted the powers through a prescribed process. In accordance with the Constitution, the Licensing & Safety Committee or relevant sub-committee deals with Licensing matters.

4.2 Although these provisions have been adopted, there is an exemption for premises that provide sexual entertainment infrequently. These are defined as premises where there are no more than 11 events of sexual

entertainment in any period of 12 months, where the individual events last no more than 24 hours and where there is at least a month between each event. These premises will continue to be regulated under the Licensing Act 2003.

- 4.3 Medway currently licenses one sex shop, in High Street, Chatham and one sexual entertainment venue at Tenshi at the Casino Rooms, Blue Boar Lane, Rochester.
- 4.4 The draft policy will look to include any changes made both nationally and locally and any lessons that may be learnt.

5. Drafting of a new policy outlining the requirements of Taxi Licensing

- 5.1 At the request of members a consultation document is currently out seeking the views of both the trade and public on the content of such a policy. The results of which along with current good practice, case law and current legislation will form the basis of the draft policy.

6. Risk Management

- 6.1 The policies must be fully in line with relevant legislation. Full consultation on the policies with relevant stakeholders will minimise the risk of challenge. Officers and the Committee will need to be aware of any effect these policies will have on existing licence holders and this will be a matter that is considered during the drafting of the policies.
- 6.2 The draft policies, outcome of consultations and recommendations will be put before this committee at a later date for consideration, along with details of the committee framework to be followed for approval and implementation.

7. Financial and legal implications

- 7.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future any of the policies were subject to legal challenge, there could be costs associated with this process. Having such policies will assist with consistency and fair decision-making and provide justification in the event of legal challenge. In making decisions regarding applications, Licensing Officers and Committees should have regard to all the circumstances of a particular and not follow policies slavishly, but are entitled to have due regard to a policy.

8. Recommendations

- 8.1 The Committee is asked to instruct officers to draft the relevant policies, circulate to Members of this committee for approval and consult appropriately and include internal consultation and report back to this committee with a final version for approval including the results of the consultations carried out prior to obtaining final approvals as set out in paragraph 6.2 of the report.

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Background papers

None