

## **REPORT TO LICENSING COMMITTEE, EXECUTIVE AND COUNCIL**

**Date of Meetings: 18<sup>th</sup> September, 9<sup>th</sup> October, 13<sup>th</sup> November 2018**

**Report of: Environmental Health and Licensing Manager**

**Title: Report outlining a proposal to introduce an updated Gambling Act 2005**

**Statement of Licensing Policy**

**Legislation: Gambling Act 2005**

### **Is this a Key Decision?**

No

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### **Is this an Executive or Council Function?**

Council Function

## **1. What is the report about?**

- 1.1 This report details the responses to the consultation undertaken into the proposed updated Gambling Act 2005 Statement of Licensing Policy which was presented to the committee at the meeting on 29<sup>th</sup> May 2018. A full 12 week consultation period has been undertaken. The Licensing Committee is constituted with the task of formulating new statements of licensing policy with the final policy being put before Full Council for adoption.

## **2. Recommendations:**

- 2.1 The Licensing Committee are requested to approve the updated Gambling Act 2005 Statement of Licensing Policy in order that it can be progressed through to full Council for adoption in January 2019.
- 2.2 That Executive supports the introduction of the updated Gambling Act 2005 Statement of Licensing Policy.
- 2.2 That Council formally approves and adopts the updated Gambling Act 2005 Statement of Licensing Policy.

## **3. Reasons for the recommendation:**

- 3.1 Exeter City Council's current Statement of Licensing policy was written in 2015 and came into effect in January 2016. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2019. The draft policy attached to this report has been updated to reflect changes in national guidance, and feedback from the Gambling Commission.
- 3.2 The Licensing Committee resolved on 29th May 2018 that a public consultation should begin on the proposed new policy. Following the Licensing Committee's decision, the Licensing Team undertook a full 12-week consultation with a wide range of stakeholders who may have an interest in this policy, including existing licence holders, gambling support providers, and statutory consultees.

3.3 The authority received comments back in relation to the consultation exercise, which are summarised in Appendix A and presented in full in Appendix B.

**4. What are the resource implications including non-financial resources.**

- 4.1 The proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.
- 4.2 There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering to the changed requirements there may be some training implications for existing staff.
- 4.3 Any future costs in relation to the production of the policy will be met by income from fees.

**5. Section 151 Officer Comments:**

There are no requests for additional finances contained within this report.

**6. What are the legal aspects?**

In accordance with the provisions of the Gambling Act 2005 the Council is required to prepare and publish a statement of licensing principles that it proposes to apply in relation to its regulatory responsibilities under the Act. The Council seeks to comply with this legal duty through its Statement of Gambling Policy.

The Council's policy statement lasts for a maximum of three years, but can be reviewed and revised by the Council at any time within the three year period.

The Council must review its policy every three years. As this report identifies, the current policy must be reviewed by 31 January 2019.

In reviewing its policy, the Council is required to carry out a consultation process in accordance with the provisions of section 349 of the Act. Section 349(3) of the Act identifies in broad terms those persons who should be part of the consultation process.

**7. Monitoring Officer's comments:**

On the basis that the Council has carried out the review of its statement of licensing principles in accordance with the Gambling Act 2005, this report raises no issues for the Monitoring Officer.

**8. Report details:**

- 8.1 This proposed policy sets out the general principles that the Council will follow in relation to the enforcement of gambling legislation.
- 8.2 The proposed policy and the conditions included represent guidance on details of the service provided and the general principles that the Council

follows in relation to the enforcement of gambling legislation and the discretionary functions it undertakes.

- 8.3 The authority embraces the Department for Business Innovation and Skills' "Regulators Code." The authority embraces the principles of better regulation to promote efficient and effective approaches to regulatory activity without imposing unnecessary burdens on business. The Licensing Authority shall have regard to any plan agreed between a company and primary authority.

**9.0 How does the decision contribute to the Council's Corporate Plan?**

- 9.1 The proposed Statement of Licensing Policy will contribute to improvements in gambling regulation, help promote a healthy and safe city, and lend support to a robust, business friendly economy.

**10.0. What risks are there and how can they be reduced?**

- 10.1 There are risks that a poorly drafted policy that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks have been minimised by ensuring appropriate consultation has taken place.
- 10.2 The responses received to date have been accepted where they add to the policy. Those responses that may give rise to challenge have been rejected primarily because the proposals are not legal or enforceable. Due regard has been given to the reasonableness and proportionality of policy tools.
- 10.3 As a result of consultation responses received from Public Health Devon and the Gambling Commission amendments have been made to the draft policy. These amendments have been summarised in Appendix A and are shown in full in the attached draft policy.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

- 11.1 Formulating a licensing policy that recognises the key aims of the council, responsible authorities and other stakeholders will make a positive impact on creating a vibrant city to live, work and visit.

**12. Are there any other options?**

- 12.1 Members of the Committee may reject the proposed policy on the grounds that the policy requires amendment. However, significant amendment to the proposed policy would likely require a further consultation period.

**Environmental Health and Licensing Manager**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

- Draft Statement of Licensing Policy
- Gambling Commission Guidance to Local Authorities
- Gambling Commission Licence Conditions and Code of Practise 2018