

Date of Meeting 17 November 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A.

Gambling Policy Tri-annual Review

Report summary:

Gambling Act 2005 – Tri-annual Review of the Council’s Gambling Policy and Policy Adoption

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Committee:

1. Note the results of the public consultation undertaken on the Council’s draft Policy relating to the Gambling Act 2005.
2. Recommend to Council at its meeting on 8 December 2021 to adopt, for the period 31 January 2022 to 31 January 2025, the East Devon Gambling Act Licensing Policy as attached at Appendix B and
3. Recommend to Council to resolve not to issue casino premises licences, under the Gambling Act 2005 for a ‘No Casino’ policy.

Reason for recommendation:

It is a legal requirement of the Act for the Council to determine a Gambling Policy in order to carry out its statutory functions under the Gambling Act 2005. The Licensing and Enforcement Committee and officers must have regard to its Gambling Licensing Policy when deciding upon licence applications. The Policy was last reviewed in 2019. It must be reviewed at least every three years and therefore an amended Policy must be adopted by the 31 January 2022

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk.

Links to background information.

Link to Council Plan

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1. Background and Proposed Amendments to the Existing Policy

- 1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Gambling Policy. The published Policy then provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Authority carries out its functions in relation to the legislation. Council adopted the current Policy on 12 December 2018.
- 1.2 The Act requires that the Licensing Authority review its Gambling Policy every three years. The Council's present policy will expire on the 31 January 2022 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.3 Over the past three years the current policy has been kept under review by the Licensing Service. However a number of recent changes are proposed to reflect current practices including updated further guidance issued by the Gambling Commission.
- 1.4 The adopted policy must set out the authority's general approach to licence applications and may only be determined following consultation. The revised policy now includes the additional updates:
 - Updated information for the Geographical & Local area data relevant to East Devon. Whilst not a requirement on a Licensing Authority, developing a 'Local Area Profile' (Part A. Sec.3) provides more local focus for statements of licensing policy and reflects good practice;
 - Updated declaration with the addition of adherence to the Human Rights Act (Sec 5),
 - The addition of links to the present Guidance to Local Authorities (Sec 6)
 - Inclusion of licensing activities not undertaken or the responsibility of Local Authorities (Sec 11.2).
 - Inclusion requirement to adhere to Safeguarding principles on application for changes in Betting Office premises (Part C. Sec 3.5).
 - General amendment to web links and contact details that have changed
- 1.5 Invitations were circulated widely to take part in the consultation to all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and the Devon Primary Care Trust. The draft Policy was

published on the Licensing Service's dedicated web pages to allow web users to comment online.

1.6 The consultation and publication timetable for the Policy is:

- | | | |
|---|---|--|
| <input type="checkbox"/> 26 August 2021 | - | Revised policy that was approved for consultation for consultation |
| <input type="checkbox"/> 24 October 2021 | - | Consultation period ended |
| <input type="checkbox"/> 17 November 2021 | - | Result of consultation reported to L & E Committee |
| <input type="checkbox"/> 1 December 2021 | - | Cabinet |
| <input type="checkbox"/> 8 December 2021 | - | Policy considered by full Council for adoption |

1.7 A wide consultation was conducted in accordance with the Guidance published under Section 182 of the Act to provide an opportunity for views and representations to be received from industry, statutory bodies, East Devon residents and other agencies.

1.8 This report presents the proposed Licensing Policy and the results of the public consultation.

2 Results of consultation

2.1 The Consultation exercise for this policy has been wide and a copy of the draft policy was placed on the Council's website.

2.2 A total of three responses have been received to the consultation exercise and have been listed in the table at **Appendix A** to this report. Column 6 (far right) in this document indicates whether a change is proposed to the draft policy as a result of the consultee's comment. Column 4 sets out the representations/comments received and column 5 records the Licensing Service's appraisal of the representation.

2.3 One response was from the gambling trade, being via a legal representative and making reference to issues requiring gambling operators to consider and document local risks. It is not considered necessary to amend the draft policy.

2.4 One response was from a charity organisation commenting on the potential impact of gambling upon vulnerable members of society with a link to new interactive maps that can be viewed by Ward and District.

2.5 One response was from a town council regarding the awareness of problem gambling for which a link to the Gambling Commissions guidance has been added in the policy.

2.6 During the consultation period on 23rd September, the Licensing Manager attended a Zoom meeting organized by the Gambling Commission for all coastal gambling authorities where emerging updates were discussed. There was a general consideration that licensing authorities receive a low number of responses to Gambling Policy consultations undertaken every three years.

3 Development of a Local Area Profile

3.1 Progression of a Local Area Profile was agreed by members as being worthwhile and officers have engaged with other Councils services over the last period to consider the data and the partner agencies that could make a valuable contribution. EDDC's Public Health Project Officer has engaged the Public Health team at Devon County Council and the question of strategies and relevant data that may be available has started. In addition EDDC's Community Safety Coordinator has reached out to partnerships and authorities to consider district and county based data that is also under consideration.

3.2 The Licensing Manager is a member of EDDC's Public Health Project group and the continuing work to gather and collect data to prepare a Local Area Profile will continue over

2021/22. Meaningful data and statistics need to be identified to form the basis of a credible Local Area Profile that can consider links to premises licences granted in this district. A response provided during the consultation to the draft policy identified the option for interactive maps relating to problem gambling by Ward, District and County that will be examined (see 2.4 above).

4 No Casino Resolution

- 4.1 The proposal at the last meeting of this Committee for consideration of a ‘No Casino’ resolution in the Gambling Policy was taken by roll call and it was regarded there is merit for this proposal. The recommendation today is that the Committee considers to recommend to Full Council to pass a new resolution for ‘No Casino’ policy at this stage. The alternative is to consider gathering further information upon the next policy review in 3 years time in 2025.
- 4.2 The inclusion of the ‘No Casino Policy’ has not been adopted previously by EDDC since introduction of the Act in 2005 and it has not received an application for a casino in that time. It is a matter for the Licensing Committee to decide if a new resolution should be passed and to make recommendations to Full Council to adopt in in policy.
- 4.3 The public consultation conducted between 26 August and 24th October 2021 with regard to the draft policy stated in relation to Casinos in Part B – Section 4:

East Devon District Council has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

Whilst the Council has not passed such a resolution, the Council is currently not enabled by the Secretary of State (in accordance with regulations made under Section 175 of the Act) to grant a premises licence for a casino.

- 4.4 Under section 166 of the Gambling Act 2005 the Council can adopt a “No Casinos” resolution.
- 4.5 The Gambling Commission provides Guidance to Licensing Authorities (GLA) and with regard to resolutions not to issue casino licence it outlines;
 - S.166(1) of the Act states that a licensing authority may resolve not to issue casino premises licences.
 - The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the licensing committee. In passing such a resolution the authority may take into account any principle or matter, not just the licensing objectives. Where a resolution is passed, it must be published by the authority in its statement of policy.
 - The resolution must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution (again the whole authority must pass that resolution). The resolution will lapse after three years so, should the licensing authority wish to keep the policy in place, they should pass a resolution every three years.
 - A resolution not to issue casino premises licences will only affect new casinos. It will not have any effect on casino premises licences issued before the resolution takes effect or on provisional statements issued before that date.

- 4.6 The resolution, if passed, must apply to casino premises generally and would mean that no application for a Casino Premises Licence would be considered. Any application received would be returned with a notification that a “No-Casino” resolution was in place.
- 4.7 A resolution once passed, is in effect for a period of three years from the date it takes effect and the Council would need to readopt it, otherwise it will lapse.
- 4.8 Once a resolution has been adopted it must be placed within the Council’s ‘Statement of Gambling Policy and with the date it commenced.
- 4.9 It is possible to challenge the policy adopted by judicial review.

5 Conclusions

- 5.1 The number of responses to the draft licensing policy for East Devon demonstrated varied viewpoints from a small number of respondents with differing backgrounds.
 - 5.2 The Licensing Authority must adopt a new policy prior to 31 January 2022 in order to exercise its powers under the Act. Once the Council has approved the Gambling Act Licensing Policy on the 8 December it will be published and will be available through the Council’s website. Existing licence holders will be up dated and advised that a copy is available on the Council’s website or alternatively they can request a copy to be sent to them.
 - 5.3 A copy of the full draft policy which is proposed for adoption appears at **Appendix B**.
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Financial implications:

If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail costs being awarded against the District Council

Legal implications:

The legislative framework is set out within the report.