

**LICENSING AND REGULATION COMMITTEE**  
**28 October 2021**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT:**           **GAMBLING ACT 2005**  
  **STATEMENT OF LICENSING PRINCIPLES 2022 – 2025**

**REPORT OF:**                 **LICENSING MANAGER**

**EXECUTIVE MEMBER:**     **HOUSING AND ENVIRONMENTAL HEALTH**

**COUNCIL PRIORITY:**       **BUILD THRIVING AND RESILIENT COMMUNITIES**

**1. EXECUTIVE SUMMARY**

1.1 The purpose of this report is for the Licensing and Regulation Committee (“the Committee”) to consider the draft Statement of Gambling Licensing Principles (“the Policy”) prepared by officers and the public consultation responses in order to recommend the adoption of a final Statement of Licensing Principles to Full Council.

**2. RECOMMENDATIONS**

2.1 That the Licensing and Regulation Committee consider the consultation responses and recommend the adoption of the Policy appended at Appendix A to Full Council.

**3. REASONS FOR RECOMMENDATIONS**

3.1 Licensing authorities are required to publish a policy every three years by virtue of section 349 of the Gambling Act 2005 (“the Act”).

3.2 A new policy must be published by 3 January 2022 to comply with this statutory requirement.

3.3 The Policy builds on the effectiveness of the existing policy with minor amendments to reflect changes in legislation, statutory guidance, consultation responses and an updated local area profile.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 The only alternative option would be a policy that differs in content and/or extent.

4.2 An alternative policy has not been considered as the proposed Policy strikes an effective balance between ensuring the promotion of the licensing objectives and not being overly prescriptive or prohibitive to applicants and licence holders.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

5.1 The Executive Member for Housing and Environmental Health has been kept informed throughout the drafting of the Policy and the public consultation process.

- 5.2 The Act requires the licensing authority to consult with a prescribed group of persons (see paragraph 9.1 of the report). Further information on the list of consultees is available in section A3.4 of the Policy.
- 5.3 To comply with this requirement, the licensing authority published the Policy on a dedicated webpage on the Council's website with details of the consultation period and an explanation of how to make a representation. All organisations listed in section A3.4 of the Policy were sent a consultation email or letter directing them to the consultation page.

## **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1 The Act transferred the overall regulation of gambling to the Gambling Commission with local authorities acting as the licensing authorities and having responsibility for a variety of licensing functions in respect of gambling premises such as casinos, bingo halls, betting shops, track betting and amusement arcades.
- 7.2 In preparation for this new responsibility, local authorities had to publish a policy by 3 January 2007 and the Act requires the policy to be kept under regular review and formally reviewed by way of public consultation, and adoption by Full Council, every three years. The existing policy was last adopted with effect from 3 January 2019 therefore the statutory three year period expires on 2 January 2022.
- 7.3 The Policy seeks to strike a balance between the interests of licence holders, applicants, and residents in the promotion of the licensing objectives defined by the Act. Additionally, it outlines the licensing authority's expectations of licence holders in promoting the licensing objectives, whilst advising on the licensing authority's obligations under the Act, including its interpretation of the Act and/or Statutory Guidance where necessary.
- 7.4 It is the Council's intention that the Policy offers appropriate protection for residents and a streamlined approach to regulation that eases unnecessary burdens on businesses.

## **8. RELEVANT CONSIDERATIONS**

### **8.1 Existing policy**

- 8.1.1 Officers are of the view that in general terms the existing policy is working well, therefore, the only significant changes proposed are those detailed below. The Policy has been updated to reflect minor legislative changes and revised Statutory Guidance issued since its adoption.
- 8.1.2 Any amendments to the existing policy have been highlighted in red text in the Policy attached as **Appendix A**.

### **8.2 Local area profile**

- 8.2.1 Local authorities are able to include a local area profile giving an overview of the district covering issues that may be relevant to the consideration of applications for gambling premises.

8.2.2 The local area profile included as Appendix A of the Policy has been updated in line with the latest information provided in the Knowing our Communities document appended as part of the Corporate Equality Strategy.

### **8.3 New paragraphs in the Policy**

#### Public engagement

8.3.1 It is often the case that representations address issues outside of the remit of the licensing objectives which our customers can find confusing, particularly when it is still a Council responsibility. The Policy commits licensing officers to work with our customers to help them address their issues with the appropriate agency/service team.

8.3.2 The Policy also commits the Council to a multi-agency approach to address higher impact concerns in the community where licensing is not the main source of redress.

#### Mediation

8.3.3 To avoid unnecessary sub-committee hearings when a resolution with all party agreement is possible, officers will facilitate mediation between all parties. If mediation commences during the consultation period, it could alleviate further representations on the same issues where a resolution is agreed.

8.3.4 To encourage applicants to attempt mediation, unsuccessful attempts will be included in the sub-committee report to demonstrate the applicant is trying to work with the local community.

#### Local authority lottery

8.3.5 The Policy clarifies that the Council's community lottery is independently regulated by The Gambling Commission.

#### Safeguarding

8.3.6 The Council strongly believes that all licensed premises have a responsibility to ensure that safeguarding is a key priority for all businesses in respect of staff, customers, and any person in the vicinity of the premises.

8.3.7 The Policy already contained a section on child sexual exploitation however a new section has been added extending the responsibilities of licence holders in addressing all safeguarding matters. This relates to customers on the premises and in the immediate vicinity.

#### Environmental considerations

8.3.8 Protecting the environment doesn't fall within the remit of the licensing objectives so measures cannot be mandated however it is reasonable for the Council to expect licence holders to make every effort to support the Council's declaration of a climate emergency.

The Policy suggests measures that would support this approach such as:

- avoiding single use plastic cups if providing drinks to customers
- avoiding the use of plastic pen for completing betting slips
- company policies on environmental issues

### Public health and gambling

- 8.3.9 Whilst public health in its own right is not within the remit of the licensing objectives, there is a role for the public health team. A study has shown that there is a statistically significant increase in the risk of violence and domestic abuse associated with gambling.
- 8.3.10 'Protecting children and other vulnerable people from being harmed by gambling' is a licensing objective therefore information relating to gambling-related health issues is relevant to this Policy. The Council will work with local public health teams where information becomes available, particularly in relation to licence reviews where licence holders are not doing enough to protect their customers from problem gambling.

### Role of Councillors

- 8.3.11 Following on from the success in advising local ward councillors of Licensing Act 2003 applications in their wards, this will now be extended to include gambling premises too.

### Representations in the public domain

- 8.3.12 To assist customers, the Policy confirms that names and addresses must be included with representations and will be published as part of the sub-committee report, as well as being supplied to the applicant. Telephone numbers and email addresses will be redacted.

### Petitions

- 8.3.13 To assist customers, clarification has been included on the criteria required to accept petitions as representations.

## **8.4 Consideration of consultation responses**

- 8.4.1 **Appendix B** summarises the consultation responses and the officers' responses.

## **9. LEGAL IMPLICATIONS**

- 9.1 Section 8.2.3 (b) of the Constitution states the Licensing and Regulation Committee terms of reference include *'to make recommendations to Council on the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005'*.
- 9.2 Section 349 of the Gambling Act 2005 requires licensing authorities to publish a statement of licensing principles every three years in accordance with prescribed requirements. The adoption of the statement of licensing principles is a non-executive function by virtue of the Act and Statutory Guidance and is reserved for Full Council by virtue of section 4.2.1(e) of the Constitution.
- 9.3 In preparing the Policy, the licensing authority must (and has) published any proposed policy before giving it effect and must consult with:
- the chief officer of police for the licensing authority's area;
  - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

- 9.4 The Act specifies that licensing authorities shall aim to permit the use of premises for gambling in so far as the authority thinks it:
- in accordance with any relevant code of practice issued under section 24 of the Act;
  - in accordance with any relevant guidance issued by The Gambling Commission under section 25 of the Act;
  - reasonably consistent with the licensing objectives (subject to the above);
  - in accordance with the Statement of Licensing Principles (subject to the above).
- 9.5 The licensing authority may only depart from its policy on an individual application where it is necessary to promote the licensing objectives and to comply with the requirements of paragraph 9.4 above. Departing from the policy for any other reason exposes the licensing authority to the possibility of legal challenge.
- 9.6 The Policy must (and does) support the Act and always seek to promote the three licensing objectives specified therein:
- preventing gambling from being a source of crime and 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.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 Local authorities have the ability to set their own local fees for the Act on a cost recovery only basis, subject to centrally prescribed maximum amounts. The administration and enforcement of the Act, including the adoption of a policy, places no additional financial burden on the Council as all costs are recovered through fees. In accordance with a previous resolution of the Licensing and Regulation Committee, all locally set fees are subject to three-yearly costing exercises to ensure they recover all reasonable costs.

## **11. RISK IMPLICATIONS**

- 11.1 If a policy is not adopted and published by 3 January 2022 in accordance with section 349 of the Act, the Council would be at risk of challenge for determining applications against an unlawful policy.
- 11.2 A clear and robust adopted policy provides the licensing authority with the opportunity to enhance its work with relevant stakeholders and to mitigate local risks to the licensing objectives proactively.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The Policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion, or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met.

**13. SOCIAL VALUE IMPLICATIONS**

13.1 The Social Value Act and the “go local” policy do not apply to this report.

**14. ENVIRONMENTAL IMPLICATIONS**

14.1 There are no known environmental impacts or requirements that apply to this Policy.

**15. HUMAN RESOURCE IMPLICATIONS**

15.1 The Policy will not place any new human resource implications on the Council.

**16. APPENDICES**

16.1 Appendix A Proposed Statement of Gambling Licensing Principles

16.2 Appendix B Summary of public consultation responses

**17. CONTACT OFFICERS**

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**18. BACKGROUND PAPERS**

18.1 Gambling Act 2005

18.2 Gambling Commission Guidance

18.3 Consultation

18.4 Existing policy