



Committee and Date

Council

26 July 2018

Gambling Act 2005 – Policy Statement 2019 to 2022

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1. Summary

- 1.1** The Gambling Act 2005 ('the Act') requires the Council to prepare and publish a statement of the principles ('policy statement') that it proposes to apply in exercising its functions under the Act. The policy statement under the Act lasts for a maximum period of 3 years but can be reviewed and revised by the Council at any time.
- 1.2** The Council's Strategic Licensing Committee has agreed the proposed policy statement and recommends that it is approved by the Council.

2. Recommendations

- 2.1** That the Council agrees the proposed Gambling Act 2005 Policy Statement 2019 to 2022 as set out in **Appendix 1** and delegates authority to the Trading Standards and Licensing Operations Manager to publish the policy statement and to advertise it in accordance with the provisions of the Gambling Act 2005.
- 2.2** That the Council agrees that the Gambling Act 2005 Policy Statement 2019 to 2022 will be adopted with effect from 31 January 2019.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** The preparation and publishing of the policy statement is a legal requirement under the Gambling Act 2005.
- 3.2** If the Council fails to prepare and publish the policy statement the Council may be challenged when exercising its functions under the Act through a number of routes, e.g. service complaints to the Local Government Ombudsman and judicial review. Conversely, by preparing and publishing the policy statement, the Council is complying with its legal obligation. In addition, the Council provides a defined

framework within which to exercise its functions and makes it clear to all stakeholders the manner by which the Council intends to exercise its functions.

3.3 The development of the policy statement was overseen by the Council's Strategic Licensing Committee and considered on the 7 March 2018 and 20 June 2018. The relevant reports and associated appendices can be found on the Council's website at:

- Agenda Item 5 of the March 2018 meeting. <https://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MId=3557&Ver=4>
- Agenda Item 9 of the June 2018 meeting. <https://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MId=3729&Ver=4>

3.4 The Strategic Licensing Committee agreed the recommendations as set out in both the reports referred to in paragraph 3.3, i.e. the Committee agreed an initial draft of the policy statement to go out to consultation and then considered the consultation feedback and agreed the final draft of the policy statement that is now presented to Council for final approval and adoption.

3.5 There is no anticipated environmental impact associated with the recommendations in this report.

3.6 The recommendations are not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with relevant legal procedures prescribed by the Act and with guidance issued by the Gambling Commission.

3.7 The Act requires the Council to consult and this has been undertaken with relevant stakeholders. A full list of consultees is included as part of the policy statement (see pages 82 and 83 of **Appendix 1**).

3.8 Formal consultation was undertaken over a ten week period (12 March 2018 to 20 May 2018), which provided, in particular, an opportunity for gambling industry representatives to provide feedback. Only one formal response was received as part of the consultation. This, together with associated officer comments, is available within the Strategic Licensing Committee reports referred to in paragraph 3.3 above.

3.9 There have been no significant changes to the policy statement. This should not be perceived as a negative; rather it demonstrates that the fundamental principles that were introduced in 2016 and formed the basis of the 2016 to 2019 policy statement are sound and continue to be relevant. However, discussions with the Gambling Commission during the lifetime of the current policy statement and in the lead up to its revision has led to minor amendments that update guidance references, reduce the administrative burden on applicants and holders of Small Society Lottery Registrations, clarifies that adults with care and support needs form part of the legislative definition of vulnerable person and confirms the current Council delegations. The Local Area Profile has also been refreshed and can be found at Appendix B of the policy statement.

- 3.10** Following the consultation, only one representation was received and this did not lead to any fundamental or significant amendments; the changes that were made were simply to correct typographical errors and provide greater clarification on specific matters across the policy statement.
- 3.11** Due regard has been given to the public sector equality duty in accordance with the Equality Act 2010. As part of this process social inclusion has also been considered in line with the Council's overall approach to equality and diversity. An Equality and Social Inclusion Impact Assessment (ESIIA) has been completed and is produced at **Appendix 2**.
- 3.12** For all the protected characteristic groups, the impact is rated as 'low positive'. The impact in reality is anticipated as being neutral – neither positive nor negative – with no anticipated need to take actions to mitigate or enhance the impact, although steps have been identified to review and monitor the impact of the policy statement. The assessment seeks to take into account children and young people who are looked after by Shropshire Council and the families of children in need when considering the 'age' group and adults with care and support needs, e.g. adults with learning disabilities, when considering the 'disability' group.
- 3.13** The policy statement does not breach any individual or group's human rights; it sets out processes and procedures that aim to protect human rights, in particular those rights that relate to a right to a fair trial, no punishment without law and right to respect for private and family life. If the policy statement were not followed, there is a risk that human rights may be breached.
- 3.14** Actions have been identified to engage with people in the protected characteristic groupings, and those involved in their care, given the groupings we are seeking to protect as a Council and for whom we have corporate parenting responsibilities, particularly as a very low level of response to the consultation was received.
- 3.15** The overall impact on all groups with protected characteristics and those who are likely to be impacted in terms of social inclusion is anticipated to be low in terms of access to and use of services that are affected by the revised policy statement.
- 3.16** However, the Council's ability to further tackle and eliminate discrimination, advance equality of opportunity and foster good relations is overall more likely to be positive. This is largely due to the proposed policy statement being drawn up in line with the requirements of both national legislation and national guidance (both of which will have been subject to equalities impact assessments in their own right by the Government and the Gambling Commission respectively), together with the fact that the proposed policy statement continues with the principles that were previously adopted on 1 April 2016 and the formal consultation feedback did not directly raise any equality, diversity or social inclusion issues that had not previously been considered during the drafting of the proposed policy statement.

4. Financial Implications

- 4.1** Whilst clearly there are costs incurred in terms of staff resources and the associated and necessary overheads to develop the policy statement, the only additional direct financial cost associated with the recommendations is the cost that will be incurred to place the required legal notice in the Shropshire Star newspaper in order to

satisfy the requirement to advertise the fact that the policy statement has been published. This cost, which will be incurred by Trading Standards and Licensing Service, will be approximately £800 and is recoverable over subsequent years through the licensing fee process.

5. Background

- 5.1** Under the Gambling Act 2005, the Council is the licensing authority and is responsible for licensing and overseeing local gambling establishments. Part of this responsibility is the duty to prepare and publish a statement of the principles that the Council proposes to apply in exercising its functions under the Act. The policy statement must be approved and adopted by full Council before it can take effect.
- 5.2** The Council's current Gambling Act 2005 Policy Statement came into effect on the 1 April 2016 and will cease to have effect on the 31 January 2019. The Council must be in a position to formally adopt a revised policy statement with effect from 31 January 2019.
- 5.3** There are legally prescribed procedures that the Council must follow before the policy statement can take effect. This involves making the statement publicly available by a variety of means for at least 4 weeks and by advertising that it has been published.
- 5.4** The policy statement must be approved by full Council. To allow sufficient time for the necessary publication and advertising to take place prior to the 31 January 2019, the approval process must be completed prior to the 13 December 2018.
- 5.5** The formal consultation was publicised through the 'Get Involved' pages of the Council's website. In addition, direct emails, providing a link to the Council's web page consultation, were sent to key stakeholders. Part 5 of the policy statement includes a list of the stakeholders that were consulted.

6. Additional Information

- 6.1** Unless there are specific reasons for an earlier review and publication of a revised policy statement, the Council will be required to undertake the next consultation process under the Act in the latter part of 2021 with the aim of a revised policy statement being effective from an agreed date in 2022.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

The Gambling Act 2005 (2005 Chapter 19), as amended

The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (SI 2006 No. 636)

Shropshire Council's Gambling Policy Statement (effective 1 April 2016)
(<https://www.shropshire.gov.uk/media/1552618/Gambling-Policy-2013-2016.pdf>)

Guidance to Licensing Authorities 5th Edition September 2015 published by the Gambling Commission (<http://www.gamblingcommission.gov.uk/pdf/GLA/GLA.pdf>)

Gambling Regulation Councillor Handbook (England and Wales) 2018 published by the Local Government Association
(https://www.local.gov.uk/sites/default/files/documents/10.18%20Gambling%20regulation%20councillor%20handbook_v06_WEB_1.pdf)

Problem Gambling Frequently Asked Questions August 2013 published by the Local Government Association in association with Public Health England
(<https://www.local.gov.uk/sites/default/files/documents/problem-gambling-frequently-4f2.pdf>)

Cabinet Member (Portfolio Holder)

Councillor Joyce Barrow, Portfolio Holder for Communities, Waste and Regulatory Services

Local Member

The recommendations have county wide application.

Appendices

Appendix 1 - Proposed Gambling Act 2005 Policy Statement 2016 to 2019 (hard copy is available in the Members' Library)

Appendix 2 - Equality and Social Inclusion Impact Assessment (ESIIA)