

Gambling Act 2005 – Policy Statement

Responsible Officer Frances Darling

e-mail: frances.darling@shropshire.gov.uk

Tel: 01743 251715

1. Summary

- 1.1** The Gambling Act 2005 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** This report sets out a draft policy statement upon which the Council proposes to consult.

2. Recommendations

- 2.1** That the Committee agrees, with any necessary amendments, the draft Gambling Act 2005 policy statement as set out in **Appendix 1** and instructs the Head of Business Support and Regulatory Services, in consultation with the Chair of the Strategic Licensing Committee, to undertake a process of consultation and to prepare a final draft of the policy statement for further consideration by the Committee no later than 6 January 2016.

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 (the Act).
- 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** An Equality and Social Inclusion Impact Assessment (ESIIA) has not, at this stage, been formally undertaken as the report does not concern the implementation of a new policy. The proposed policy statement is a revision of the statement of principles that was adopted on 1 June 2013 and continues to be in line with requirements of the Act and with guidance issued by the Gambling Commission. However, further consideration will be given to the need for an ESIIA as part of the consultation process.
- 3.4** There is no anticipated environmental impact associated with the recommendations in this report.
- 3.5** The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendation is in line with relevant legal procedures prescribed by the Act and with guidance issued by the Gambling Commission.
- 3.6** The Act requires the Council to consult. The report's recommendation is specifically aimed at providing the Committee with the wherewithal to set the formal consultation process in motion. It is anticipated that consultation will be undertaken over an eight week period during October and November 2015.

4. Financial Implications

- 4.1** There are no direct financial implications associated with the recommendation in this report; although prior to the policy statement formally taking effect, a cost 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 will be approximately £500 and is recoverable 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 (policy statement) that the Council proposes to apply in exercising its functions under the Act.
- 5.2** The Council's current Gambling Act policy statement came into effect on the 1 June 2013 and will cease to have effect on the 31 May 2016. The Council must be in a position to formally adopt a revised policy statement with effect from 1 June 2016. It is, however, the aim to bring the adoption date forward to the 1 April 2016; the timetable to undertake the necessary legal process has been set accordingly.
- 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 adopted by full Council; this function cannot be delegated to either the Strategic Licensing Committee or Cabinet. The proposed statement must, therefore, be presented to Council no later than the 10 February 2016, to allow sufficient time for the necessary publication and advertising to take place prior to the 1 April 2016.
- 5.5** Officers have taken the opportunity to significantly revise the format of the policy statement to reflect the latest guidance issued to licensing authorities by the Gambling Commission. In particular:
- a) It is recognised nationally that there is a greater need to focus on understanding and mitigating gambling related harm more broadly, rather than focussing on problem gambling alone. In this respect, the revised policy statement emphasises the Council's focus on protecting children and young people, particularly in relation to child exploitation, and also other vulnerable people from harm.
 - b) Nationally, gambling policy and the regulatory environment overall has an increasing focus on risk. Whilst not compulsory, it is now recommended that the Council creates a 'local area profile' (an initial draft is included as part of the policy statement) to inform its understanding of risk and to allow appropriate decisions to be made and steps taken to mitigate these risks. From April 2016, gambling establishment operators must undertake 'local area risk assessments' before submitting a premises licence application or variation and will be expected to give due consideration to the information available in the Council's 'local area profile'. It is wholly anticipated that the Council's 'local area profile' will develop over time and will be influenced by information and intelligence from key partners and other stakeholders.
- 5.6** The Gambling Act does single out children and vulnerable people for special regulatory attention and the proposed policy statement does focus on protecting these particular groups. However, in relation to gambling activities, the question as to who is vulnerable, why and under what circumstances, has been subject to little

investigation. The Local Government Association is currently supporting research, being led by Westminster and Manchester councils, that aims to assess and map area vulnerability to gambling related harm. As and when the outcomes of this research are made available, together with other emerging information, trends and risks, the Council will have to consider the implications for both its 'local area profile' and policy statement accordingly.

- 5.7** Informal engagement has already been undertaken with a number of key internal and external stakeholders with the aim of providing a robust basis for the formal consultation process. This has included making contact with representatives from children and adult services, economic development, information governance, housing, planning, tourism, police, public health, mental health, community safety and organisations that aim to support 'problem gamblers'. At this stage, no dialogue has been held with gambling industry representatives; this will be a key focus during the formal consultation period.

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 2018 with the aim of a revised policy statement being effective from an agreed date in 2019.

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)

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 June 2013)
(<https://www.shropshire.gov.uk/media/1552618/Gambling-Policy-2013-2016.pdf>)

Guidance to Licensing Authorities 5th Edition March 2015 published by the Gambling Commission (<http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>)

Gambling Regulation Councillor Handbook (England and Wales) June 2015 published by the Local Government Association
(<http://www.local.gov.uk/documents/10180/6869714/L15-230+Councillor+handbook+-+gambling+regulation+FINAL.pdf/3e8fafb9-493b-4027-a7c8-0feb89b8e209>)

Problem Gambling Frequently Asked Questions August 2013 published by the Local Government Association in association with Public Health England
(<http://www.local.gov.uk/documents/10180/11463/Problem+gambling+-+frequently+asked+questions+-+briefing+for+councillors/21f6fef7-8d62-4edd-a535-a42244d4e50f>)

Cabinet Member (Portfolio Holder)

Councillor Malcolm Price

Local Member

Not applicable

Appendices

Appendix 1 – Draft Gambling Act 2005 Policy Statement 2016 – 2019 (Consultation Version).