

## **Gambling Act 2005 – Policy Statement**

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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** As agreed by the Strategic Licensing Committee, a period of formal consultation has been undertaken in respect of the draft policy statement that was considered by the Committee on 30 September 2015. This report sets out the representations received from consultees for further consideration and proposes amendments to the draft policy statement with a view to agreeing a revised statement that may be reported to the Council for final approval.

### **2. Recommendations**

- 2.1** That the Committee considers the representations received following the formal consultation on the draft Gambling Policy Statement and agrees the amendments, set out as 'tracked changes', with any further amendments as appropriate, to the proposed Gambling Policy Statement as detailed in **Appendix 1** and recommends to the Council that the policy statement is published and advertised by the Head of Public Protection in accordance with the provisions of the Act and that the policy statement will take effect from 1 April 2016.
- 2.2** That the Committee delegates to the Senior Commissioner for Business Support and Regulatory Services, in consultation with the Chair of the Strategic Licensing Committee, the authority to finalise the tracked changes, correct the paragraph numbering and amend any typographical errors and/or administrative inconsistencies in the proposed Gambling Policy Statement as set out in **Appendix 1** prior to the policy statement being presented to the Council for final approval.

## 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 There is no anticipated environmental impact associated with the recommendations in this report.
- 3.4 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.
- 3.5 The Act requires the Council to consult and this has been undertaken widely with relevant stakeholders. Informal engagement was carried out with a number of key internal and external stakeholders with the aim of providing a robust basis for the formal consultation process. This 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'.
- 3.6 Formal consultation, in accordance with the decision made by the Strategic Licensing Committee on 30 September 2015, was undertaken over an 8 week period (5 October 2015 to 29 November 2015), which provided, in particular, an opportunity for gambling industry representatives to provide feedback.
- 3.7 The representations received during the formal consultation period are produced at **Appendix 3. Appendix 4** sets out the officer response to each representation, including any changes made to the policy statement and, where relevant, the reasons why changes have not been made. There were no fundamental or significant amendments as a result of the representations made; those changes that were made simply provide greater clarification on specific matters across the policy statement. In particular, there were insufficient representations made to enable the Council to introduce a 'no casinos policy' without attracting the risk of legal challenge; consequently, the policy statement makes it clear that the Council does not have a 'no casinos policy'. Each licence application will be considered on its own merits.
- 3.8 The proposed policy statement clarifies and amends committee and officer delegations (see Appendix D of the policy statement); in particular, it is proposed that the Strategic Licensing Committee is given the authority to set licensing fees

under the Gambling Act. This approach is permitted under the Act and is supported through guidance issued by the Gambling Commission. It would bring the setting of licence fees under the Act in line with the Council's position on setting hackney carriage and private hire licensing fees. The Council's Constitution will need to be amended to give effect to the proposed delegations. No feedback was received on this matter during the formal consultation period.

- 3.9** Following the consultation process, further consideration was given to the need for a formal Equality and Social Inclusion Impact Assessment (ESIIA). Based on the position that the proposed policy 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 guidance issued by the Gambling Commission, together with the fact that the consultation feedback did not raise any equality or social inclusion issues, it has been concluded that the completion of a formal ESIIA is unnecessary.

#### **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, which will be incurred by Regulatory and Business Support Services, will be approximately £500 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 (policy statement) that the Council proposes to apply in exercising its functions under the Act.
- 5.2** The Council's current Gambling 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. The aim, however, is 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; for this reason the proposed policy statement will proceed from Strategic Licensing Committee directly to full Council. The proposed statement must 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** The council has taken the opportunity to significantly revise the format and content of the policy to reflect the latest guidance issued to licensing authorities by the Gambling Commission, to provide greater practical clarity to existing and potential licence holders and to assist council officers to correctly apply the legal provisions of the Gambling Act 2005. Further details are set out in **Appendix 2** under the heading ‘What does the revised policy seek to achieve?’ In addition, it clarifies and amends committee and officer delegations (see Appendix D of the policy statement).
- 5.6** The formal consultation was publicised through the ‘Get Involved’ pages of the Council’s website; a copy of the details is set out at **Appendix 2**. 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.
- 5.7** As part of the consultation, five specific questions were asked as set out in **Appendix 2** under the heading ‘On what does the council particularly want to receive feedback?’ There was only one response that specifically addressed these questions, although a number of representations made reference to some of the issues raised. Specifically, the opportunity was taken to ask whether the Council ought to have a ‘no casino policy’ (as permitted by Section 166 (1) of the Act) and if so why. The one consultee who responded directly to this question supported such a policy but with no substantive reasons. As a result, there were insufficient representations on this matter to enable the Council to consider introducing such a policy.
- 5.8** 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.

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

Guidance to Licensing Authorities 5<sup>th</sup> Edition September 2015 published by the Gambling Commission (<http://www.gamblingcommission.gov.uk/pdf/GLA/GLA.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 – Portfolio Holder for Regulatory Services, Housing and Commissioning (Central)

**Local Member**

Not applicable

**Appendices**

**Appendix 1** - Proposed Gambling Act 2005 Policy Statement 2016 - 2019

**Appendix 2** - 'Get involved' website consultation details

**Appendix 3** - Representations received

**Appendix 4** - Officer response to representations received