



Committee and Date

Council

25 February 2016

Item

14

Public

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** 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 Policy Statement as set out in **Appendix 1** and delegates authority to the Head of Public Protection 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 Policy Statement will take effect from 1 April 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** The opportunity has been taken to significantly revise the format and content of the policy statement to reflect the latest guidance issued to licensing authorities by the Gambling Commission, to further strengthen safeguarding provisions in relation to children, young people and vulnerable adults, 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.
- 3.4** The policy statement was considered and agreed by the Council's Strategic Licensing Committee on the 30 September 2015 and 6 January 2016. The relevant reports and associated appendices can be found on the Council's website at:
- Agenda Item 19 of the September 2015 meeting.
<http://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MIId=2987&Ver=4>
 - Agenda Item 7 of the January 2016 meeting.
<http://shropshire.gov.uk/committee-services/ieListDocuments.aspx?CId=166&MIId=2988&Ver=4>
- 3.5** The Strategic Licensing Committee agreed the recommendations as set out in both these reports, 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 being presented to Council for final approval and adoption.
- 3.6** There is no anticipated environmental impact associated with the recommendations in this report.
- 3.7** 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.
- 3.8** The Act requires the Council to consult and this has been undertaken widely with relevant stakeholders. A full list of consultees is included as part of the policy statement (see pages 82 and 83 of **Appendix 1**). 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'.
- 3.9** Formal consultation 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. The process and the outcome of the consultation were overseen by the Strategic Licensing Committee and the relevant documents can be found on the Council's website at the links given in paragraph 3.4. Only four formal responses were received as part of the consultation and these did not identify any particular cross-cutting themes or trends. In addition, no

fundamental or significant amendments to the policy statement were necessary as a result of the representations made. However, minor changes were made that provided greater clarification on specific matters across the policy statement, in particular (but not exclusively) around evidence based decision making and the meaning of 'vulnerable'; these are identified as 'tracked changes' in the draft policy statement, which is available as part of the Strategic Licensing Committee papers from 6 January 2016. The actual responses received, together with the associated officer responses, are also available within the same Strategic Licensing Committee papers.

- 3.10** The proposed policy statement clarifies and amends committee and officer delegations (see Appendix D of the policy statement). The proposed amendments will bring the delegations in line with those that are in place under the Licensing Act 2003 and the legislation relevant to hackney carriages and private hire vehicles. The amendments accord with national guidance issued by the Gambling Commission and good practice. No feedback, either positive or negative, was received on this matter during the formal consultation period.
- 3.11** To give effect to the revised officer delegations, the Scheme of Delegation within Part 8 of the Council's Constitution must be amended. To this end, the proposed amendments have been considered and agreed by the Political Structures Monitoring Group and are presented for approval in a separate part of the Council's agenda. For reference, a summary of the proposed amendments is provided at **Appendix 2**, together with the current and proposed delegations set out in two separate tables.
- 3.12** 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 3**.
- 3.13** 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. 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 is a revision of the principles that were adopted on 1 June 2013 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 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. The policy statement must be adopted by full Council before it can take effect.
- 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.

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 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) 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\)](http://www.local.gov.uk/documents/10180/11463/Problem+gambling+-+frequently+asked+questions+-+briefing+for+councillors/21f6fef7-8d62-4edd-a535-a42244d4e50f)

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>)

Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review. Heather Wardle, Gambling and Place Research Hub – 13 July 2015

http://transact.westminster.gov.uk/docstores/publications_store/licensing/final_phase_1_exploring_area-based_vulnerability_and_gambling_related_harm_report_v2.pdf

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 to 2019 (sent to all Members electronically and a hard copy is also available in the Members' Library)

Appendix 2 - Changes to Scheme of Delegation

Appendix 3 - Equality and Social Inclusion Impact Assessment (ESIIA)