



<u>Committee and Date</u>
Strategic Licensing Committee
7 th March 2018

<u>Item</u>
5
Public

Consultation on the 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** This report sets out a draft policy statement upon which the Council proposes to consult.

2. Recommendations

- 2.1** That the revised draft Gambling Act Policy Statement as agreed by the Committee and set out at **Appendix 1** be approved for consultation.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** The preparation and publishing of the policy statement is a legal requirement under 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** 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**.

- 3.4** 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 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.
- 3.5** There is no anticipated environmental impact associated with the recommendations in this report.
- 3.6** 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.
- 3.7** 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 a twelve week period during March to June 2018.

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 £700 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 April 2016 and will cease to have effect on the 31 March 2019. However, the Gambling Commission have instructed that local authorities must prepare and publish the next policy by the 3 January 2019, with it coming into force on 31 January 2019 (see **Appendix 3**). 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 13 December 2018, to allow sufficient time for the necessary publication and advertising to take place prior to the 31 January 2019.
- 5.5** Officers have taken the opportunity to revise 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 young people and adults with care and support needs.
 - 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', this 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. Since April 2016, gambling establishment operators have been required to 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 singles out children, young persons and adults with care and support needs 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. As and when further research and guidance is made available on this, 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 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)

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/2474/gambling-act-2005-policy-statement-2016-to-2019.pdf>)

Guidance to Licensing Authorities 5th Edition September 2016 published by the Gambling Commission (<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>)

Gambling Regulation Councillor Handbook (England and Wales) June 2015 published by the Local Government Association
(<https://www.local.gov.uk/sites/default/files/documents/L15-230%20Councillor%20handbook%20-%20gambling%20regulation%20FINAL.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-frequent-4f2.pdf>)

Gambling Commission Strategy 2018 – 2021: Making Gambling Fairer and Safer
(<http://www.gamblingcommission.gov.uk/PDF/Strategy-2018-2021.pdf>)

Cabinet Member (Portfolio Holder)

Councillor Robert Macey, Portfolio Holder for Planning and Regulation

Local Member

County wide application

Appendices

Appendix 1 – Draft Gambling Act 2005 Policy Statement 2019 - 2022 (Consultation Version - sent to all Members electronically)

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

Appendix 3 – Gambling Commission, Statement of Gambling Policy 2019 – 2022 letter (9 October 2017)