



<u>Committee and Date</u>
Strategic Licensing Committee
20 June 2018

<u>Item</u>
9
<u>Public</u>

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

**Responsible Officer** Mandy Beever – Transactional and Licensing Team Manager

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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 7 March 2018. This report sets out the single representation received from consultees for further consideration which has resulted in minor typographical and clarification 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 representation received following the formal consultation on the draft Gambling Policy Statement and agrees the officers' comments in **Appendix 1** in response to the comments made and recommends to the Council that the policy statement is published and advertised by the Operations Manager – Trading Standards & Licensing in accordance with the provisions of the Act and that the policy statement will take effect from 31 January 2019.
- 2.2** That the Committee delegates to the Operations Manager – Trading Standards & Licensing, in consultation with the Chair of the Strategic Licensing Committee, the authority to 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 7 March 2018, was undertaken over a 10 week period (12 March 2018 to 20 May 2018), which provided, in particular, an opportunity for gambling industry representatives to provide feedback.
- 3.7** The representation received during the formal consultation period is produced at **Appendix 2**. **Appendix 3** sets out the officer response to the 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 representation made; the changes made were simply to correct typographical errors and provide greater clarification on specific matters across the policy statement. In particular, there were no 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** No feedback was received regarding Equality and Social Inclusion Impact issues during the consultation. Consequently the Equality and Social Inclusion Impact

Assessment (ESIIA) has been updated only to clarify the specific consultation period. This document is produced at **Appendix 4**.

#### **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 Trading Standards and Licensing, 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 2016 and will cease to have effect on the 30 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 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 13 December 2018, to allow sufficient time for the necessary publication and advertising to take place prior to the 31 January 2019.
- 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 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) 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](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-frequent-4f2.pdf>)

**Cabinet Member (Portfolio Holder)**

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

**Local Member**

Not applicable

**Appendices**

**Appendix 1** - Proposed Gambling Act 2005 Policy Statement 2019 – 2022  
(Consultation Copy has been sent to Members electronically and is available with the agenda on the Council's website)

**Appendix 2** - Representations Received

**Appendix 3** - Officer response to consultation response received

**Appendix 4** - Equality and Social Inclusion Impact Assessment (ESIIA)