



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Full Council**

**Date: 3<sup>rd</sup> December 2018**

**REPORT TITLE:** Gambling Act 2005- Policy Statement Review

**PORTFOLIO:** Enforcement Services

**HEAD OF SERVICE:** Mark Rizk

**CONTACT OFFICER:** Louise Kemplay Ext. No. x 1343

**WARD(S) AFFECTED:** All

**1. Purpose of the Report**

- 1.1. To advise that the Authority has a duty to review the current Gambling Policy Statement in relation to the Gambling Act 2005.
- 1.2. The Licensing Sub-Committee recommend to Full Council that the final Policy Statement is suitable for adoption.

**2. Executive Summary**

- 2.1. In accordance with the requirements of the Gambling Act 2005, the Licensing Authority is required to publish a statement of policy every successive three year period from the first appointed day, namely 31 January 2007. The policy is now due to be revised to cover the successive three year period January 2019 to January 2022.

**3. Background**

- 3.1. Section 349 of the Gambling Act 2005 ("the Act") requires all Licensing Authorities to prepare and publish a Statement of Principles in the form of the Gambling Licensing Policy ("the Policy") that it proposes to apply in exercising its functions under the Act during the three year period to which the Policy applies.

- 3.2. The Council's Policy has been revised on a three yearly basis since then and it is now time to revise this Policy to cover the next three year period 31 January 2019 to 31 January 2022.
- 3.3. The Council consulted for twenty eight days on the proposed changes from the 20<sup>th</sup> September 2018.
- 3.4. The Licensing Committee considered the draft Policy at a meeting on the 19<sup>th</sup> November 2018 and resolved to recommend adoption by Full Council.

#### **4. Contribution to Corporate Priorities**

- 4.1. The issues raised in the report impact on the following Council's objective- Protecting and Strengthening Communities- Love Where You Live- having a clear Gambling Act Policy in place will protect those that are vulnerable and ensure businesses are aware of what is expected by the authority.

#### **5. Report**

- 5.1. The Gambling Act 2005 was fully implemented on 01 September 2007. The Act introduced new responsibilities for Licensing Authorities, to undertake a number of licensing functions in relation to gambling premises. Section 349 of the Gambling Act 2005 requires the Council (the Licensing Authority) to prepare and publish a Gambling Act Policy Statement that it proposes to apply in exercising its functions. The statement will last for a maximum of three years, but can be reviewed and revised by the Authority at any time. The Authority's current statement was published in January 2015.
- 5.2. The Act provides for three categories of licence:
  - Operating licences
  - Personal licences; and
  - Premises licences.
- 5.3. The Gambling Commission issues operating licences and personal licences and Licensing Authorities issue premises licences.
- 5.4. The Gambling Act 2005 places a responsibility for the licensing of gambling premises and the issuing of permits with Local Authorities, with the associated responsibility of ensuring that the conditions on these licences are upheld.
- 5.5. Amongst other matters, the 2005 Act deals with the licensing of:

- Casinos
- Betting shops
- Bingo halls
- Amusements arcades and gaming centres
- Gaming machines
- Small Society lotteries
- Alcohol licensed premises (making gaming machines available for use)
- Private clubs (making gaming machines available for use)

5.6. Central to the Gambling Act are the licensing objectives. These are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open manner,
- Protecting children and other vulnerable person from being harmed or exploited by gambling.

It is important to note that there are no other licensing objectives.

5.7. Section 349 (3) of the Act requires the Licensing Authority to consult the following on its licensing policy statement or any subsequent revision:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authorities area; and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authorities functions under the Act.

5.8. The list of persons to be consulted when preparing the Licensing Policy Statement is deliberately wide. This enables Licensing Authorities to

undertake a comprehensive exercise with anyone who may be affected by or otherwise have interest in the Licensing Policy Statement.

- 5.9. Section 154 of the 2005 Act indicates that adoption of the Policy Statement (Gambling Policy) cannot be delegated to the Licensing Committee. Therefore, Full Council must adopt the final document.
- 5.10. The first draft of the proposed revised policy is attached as Appendix 1. The policy has been amended in accordance with the guidance issued by the Gambling Commission. The amendments are highlighted in red.
- 5.11. Appendix 2 details the significant changes within the policy one of these being the requirement for Licensing Authorities to produce a Local Risk Assessment and Local Area Profile.
- 5.12. The current policy was published on 31 January 2015 and therefore a reviewed policy will need to be published by 31 January 2019.
- 5.13. The formal consultation of the Policy concluded on the 19 November 2018. The Licensing Team received one response which is attached as Appendix 3.
- 5.14. The Licensing Committee noted the comments of the response to the consultation and recommend the proposed changes to Full Council as set out.

### **Financial Considerations**

- 5.15. This section has been approved by the following member of Financial Management Unit: Anya Murray
- 5.16. A review of licensing fees and charges will take place between January to March 2019. This will consider all changes to policies which impact on fees and can be charged for to recover costs in accordance with the relevant legislation.

### **Risk Assessment and Management**

- 5.17. The main risks to this report and the Council achieving its objectives are as follows.
- 5.18. Guidance is issued to the Licensing Authorities by the Gambling Commission and the changes are statutory.
- 5.19. There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the policy is found not to comply with the requirements of the Gambling Act 2005 and associated legislation, regulations and guidance.
- 5.20. Positive (Opportunities/Benefits):

- 5.21. Council will have an adopted policy in place which is clear and transparent, to advise applicants, objectors, elected members and officers of the Council when implementing the provisions of the Gambling Act 2005.
- 5.22. Ensure consistency of licensing function by the Council in the exercise of its duties.
- 5.23. Negative (Threats)
- 5.23. 1 N/A
- 5.24. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

### **Legal Considerations**

- 5.25. There are no significant legal issues arising from this Report. However should operational issues arise, they shall be dealt with on a case by case basis and if and when necessary, minor amendments shall be incorporated into timely reviews of the document, as indeed shall be the case for legislation and good practice guidance.
- 5.26. *This section has been approved by the following member of the Legal Services Team: Angela Wakefield*

### **Equality and Health**

- 5.27. **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required. The Policy Statement follows national guidance which has taken account of equality issues.
- 5.28. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

### **Human Rights**

- 5.29. There are no Human Rights issues arising from this Report. However the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principles of proportionality i.e. is the decision/ action proportionate to what it wishes to achieve.

### **Sustainability** (including climate change & change adaptation measures)

- 5.30. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures)  
N/A

### **Recommendation(s)**

- 5.31. That the Council adopts the revised Gambling Act policy to come into effect from 31 January 2019.

### **Background papers**

- 5.32. Gambling Commission Policy Statement Guidance March 2015

### **Appendices**

- 5.33. Appendix 1: Gambling Act Draft Policy Version 1.0 2019 – 2022
- 5.34. Appendix 2: Local Risk Assessment and Local Area Profile.
- 5.35. Appendix 3: Response received to Consultation