

County Council

8 December 2021

**Review of the Gambling Act 2005
Statement of Principles**

Ordinary Decision



Report of Corporate Management Team

**Alan Patrickson, Corporate Director of Neighbourhoods and
Climate Change**

**Councillor John Shuttleworth, Cabinet Portfolio Holder for Rural
Communities and Highways**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 The purpose of this report is for Council to approve and adopt a revised Statement of Principles (Gambling Policy) for 2022 – 2025 in accordance with the Gambling Act 2005 (the Act). Once adopted, the revised policy will enable the Council to continue to make decisions when exercising its responsibilities as the Licensing Authority under the Gambling Act 2005 for the next three years. The revised version is provided in Appendix 2.
- 2 The existing policy statement is attached as Appendix 3.

Executive summary

- 3 The existing Gambling Act 2005 Statement of Principles was adopted by the Council in January 2019. Licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies.
- 4 Consultation (on the existing policy and any proposed changes) took place, which is integral to the overall policy review process, leading to the adoption of a revised policy by Council.

On 9 November 2021, the revised Statement of Principles was accepted by Members sitting as the General Licensing and Registration Committee (GLRC). The GLRC resolved to recommend the attached version for adoption by Council.

Recommendation(s)

- 5 Council is recommended to:
 - (a) consider the results of the consultation, the proposed policy revision, and the recommendation made by GLRC; and
 - (b) agree to adopt the revised Statement of Principles, to come into operation, following its publication, on 31st January 2022.

Background

- 6 Under the Gambling Act 2005, the Council is responsible for issuing premises licences for premises such as casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for unlicensed family entertainment centres, small lotteries, gaming machines in pubs, clubs, and other alcohol-licensed premises.
- 7 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the Council, acting in its capacity as the Licensing Authority. These objectives are central to the regulatory regime created by the Act and are:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 8 Licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies.
- 9 In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The previous review which resulted in the adoption of the current statement of principles took place in 2018. This enabled the current policy document to be adopted on 31 January 2019, which is attached at Appendix 3. At the time of adoption, it incorporated all relevant and amended legislation, guidance and reflected good practice.
- 10 A revised Statement of Gambling Policy must be adopted and re-published by 3 January 2022 at the latest, as the Statement must be published four weeks before it comes into effect, with it coming into force on 31 January 2022. Prior to adoption, the constitution requires the policy to be accepted for adoption and recommended to Council by the General Licensing and Registration Committee.

Consultation

- 11 In accordance with Government's Code of Practice on Consultation and recommendations from the DCC Consultation and Prevention Officer, six weeks was allocated for the consultation and for the return of

responses. The public consultation exercise on the current statement of principles and proposals amendments took place between 18 June and 1 August 2021.

- 12 The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult with as part of a review. In addition to the statutory consultees, several other individuals, agencies, and organisations considered to be affected by the policy were identified and their comments were invited. For example, we made direct contact with all existing gambling licensees within in the County and the Police and Crime Commissioner to obtain their views.
- 13 At the end of the consultation period, the three responses received were appraised and changes were made to the current policy statement, leading to the production of a final draft policy for presentation and reporting to the General Licensing and Registration Committee.
- 14 Proposed amendments to the policy resulting from the consultation and review process are now presented in this report along with recommendations from the GLRC to Full Council for adoption.
- 15 Following adoption, the revised Statement of Principles must then be re-published by 3 January 2022, as the Statement must be published four weeks before it comes into effect, with it coming into operation on 31 January 2022.

Responses

- 16 Three responses or representations were received by the Council during the consultation period. These are set out in the Table of consultation responses in Appendix 4. The consultation respondents were HM Revenue and Customs Excise, GambleAware.org and Durham Police and Crime Commissioner's Office. In this table, the responses are copied and against each point, comments are presented, and relevant proposals are made.
- 17 The PCC comments are largely noted and accepted. The service has followed the Gambling Commission guidance in compiling the policy and works closely with the Commission and the Police in relation to enforcement and regulatory matters.
- 18 The PCC's request to mandate several measures as highlighted in the PCC representation are not supported and are not included in the proposed policy. Such an approach would not accord with the legislation or guidance and to implement such a measure (the mandatory imposition of certain conditions by the Licensing Authority) would fetter the discretion of the Licensing Committee and would be open to challenge.

- 19 Other matters of a public health nature highlighted by the PCC do not fall within the remit of the 'policy' but, at an operational level, there may be opportunities for several of the Council's departments, including Public Health, to work with the PCC on such issues which, may target and help to reduce gambling related harm.
- 20 The proposed statement of principles includes a change to the HMRC postal address in accordance with information they provided. It also includes reference to GambleAware's recently published interactive maps, which have been designed for use by local authorities. The maps show the prevalence of problem gambling severity in each local authority and ward area as well as usage of, and reported demand for, treatment and support for gambling harms.
- 21 The revised Statement of Principles reflects all recent changes in legislation and Gambling Commission Guidance. A few alterations are also included to reflect recent changes in departmental names, changes to objectives in the County Durham Plan and a change to the relevant portfolio holder. No changes have been proposed to our existing policy by the Gambling Commission. Proposed alterations are highlighted in red in Appendix 2.

Main implications

- 22 The Statement of Principles fulfils two main purposes; firstly, it provides advice to businesses and the public on the Council's overall position regarding the Gambling Act 2005. Secondly, it provides a decision-making framework for the Council via its Licensing Committee to exercise its administrative and legal functions under the Act.
- 23 As such, the policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by such activities. Failure to achieve the correct balance could lead to a policy being either overly prescriptive and open to challenge, or alternatively, ineffective in the protection of residents and others or through a failure to promote the licensing objectives effectively.
- 24 Once adopted, the policy will be published and would be available to all on the Council's website.
- 25 A failure to review, revise and update the Council's Gambling Act Statement of Principles would result in the expiry of the existing policy with no replacement. This would result in the Council's inability to properly administer, manage, and regulate the Gambling Act licensing process. This would result in unacceptable deficiencies in safeguarding and would expose the public to serious risks. Public safety would be

compromised. The Council would be open to charges of maladministration and to legal challenges.

Conclusion

- 26 The GA 2005 Statement of Principles is being reviewed in accordance with the Gambling Act 2005 which requires Licensing Authorities to prepare a Statement of Principles on a three-year cyclical basis. The revised Gambling Policy includes previous changes in legislation and Gambling Commission Guidance. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.
- 27 GLRC's acceptance and recommendations to Council will lead to Council's adoption Gambling Act Statement of Principles in accordance with the national statutory three-yearly, revision plan.

Background papers

- Gambling Commissions Guidance to licensing authorities – Published 1 April 2021.
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>
- GambleAware's recently published interactive maps useful, which have been designed for use by local authorities.
<https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach>
- Gambling regulation Councillor handbook (England and Wales) Updated guidance 2018 <https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>

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Appendix 1: Implications

Legal Implications

The statement of Gambling policy must be right. If an appeal concludes it is deficient, Magistrates can declare it illegal. Matters already concluded or ongoing will be lost as the decisions were based on a defective document. Furthermore, a gambling policy can be subject to a judicial review.

Finance

The costs of consultation and publication of the revised policy will be met from existing budgets. The report has no value for money implications.

Consultation

A full public consultation process has been undertaken in respect of the review of this policy. The 3-yearly review of the Gambling Act Policy is subject to Government Guidance which prescribes the statutory consultees who must be included in policy consultation. In addition to the statutory consultees, other relevant local, regional, and national bodies and organisations have been identified and are consulted in relation to policy revision.

Equality and Diversity / Public Sector Equality Duty

An Equality and Diversity Impact Assessment (DIA) was carried out in relation to previous versions of the existing revised policy. As the current policy has an Equality Impact Assessment/Screening Assessment and we are not proposing any significant changes to existing policy, the EIA will not need alteration and screening has not indicated that any changes to the existing document are required.

Climate Change

None.

Human Rights

None.

Crime and Disorder

The Council's licensing policies form a central part of the control and regulation of the evening and night-time economies. As such, they can be viewed as having a pivotal role in the prevention of crime and disorder.

The effective control of all gambling licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for any gambling related issues or mitigate their effects. This, coupled with monitoring and enforcement and the appropriate use of the review process, can significantly contribute towards crime reduction and an increase in public reassurance.

Staffing

None.

Accommodation

None.

Risk

A failure to review, revise and update the Council's Gambling Act licensing policy would result in the expiry of the existing policy with no replacement. This would result in the Council's inability to properly administer, manage and regulate the GA 2005 licensing process. This would result in unacceptable deficiencies in safeguarding and would expose the public to serious risks. Public safety would be compromised. The Council would be open to charges of maladministration and to legal challenges.

The final revised policy once adopted may be subject to challenge and complaint.

Procurement

None.

Appendix 2: Proposed DCC Gambling Act 2005 Statement of Principles 2022 to 2025

See attached separately.

Appendix 3: Gambling Act Statement of Principles 2019-2022

See attached separately.

Appendix 4: Table of Consultation Responses

See attached separately.