

County Council

11 December 2024

Review of the Council's Statement of Gambling Principles (Gambling Policy)



Report of Corporate Management Team
Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change

Councillor John Shuttleworth Cabinet Portfolio Member for Rural Communities and Highways

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To present the revised Statement of Gambling Principles (Gambling Policy) to council and to seek its adoption.

Executive Summary

- 2 Durham County Council is a licensing authority under the Gambling Act 2005 and is responsible for the licensing of a number of gambling activities and the premises where gambling activities take place. The Council's licensing responsibilities do not extend to virtual or remote gambling which is the responsibility of the Gambling Commission.
- 3 Licensing authorities are required to prepare and publish, every three years, a statement of the principles they propose to apply when exercising their functions under the Gambling Act 2005. The current gambling policy was adopted in January 2022. A new policy must be published no later than January 2025.
- 4 A public consultation exercise has been carried out to gain views on whether the current policy should be re-adopted for another three years. Three responses were received and, where considered appropriate, these have been incorporated into the new draft policy which is attached as Appendix 2.
- 5 There are no significant changes proposed in the new policy other than minor amendments and referencing to updated relevant guidance material.

- 6 The proposed draft policy was taken to the Statutory Licensing Committee for consideration on 7th October 2024 and was endorsed for recommendation to Council.
- 7 Approval and formal adoption of the gambling policy is not an executive function and, as such, requires full council consideration and agreement.

Recommendation(s)

- 8 County Council is recommended to:
 - (a) agree and adopt the revised Gambling Policy as contained in Appendix 2.

Background

- 9 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 gaming machines in pubs, clubs and other alcohol-licensed premises. The licensing of virtual and remote gambling activities is the responsibility of the Gambling Commission.
- 10 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their 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.
- 11 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. This is referred to as a gambling policy.
- 12 In preparing their gambling policy, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance.
- 13 The current policy came into effect in January 2022 and a new policy must be approved and adopted no later than December 2024 (as it must be published four weeks before it takes effect in January 2025).
- 14 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 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.
- 15 The revised gambling policy reflects any changes in legislation and Gambling Commission Guidance. To enhance and support public protection, we have improved the current policy by providing more information and links to date for applicants needing to carry out local risk assessments as part of the application process. We have also included other links to public health data and information which may be of use and interest to applicants and others.

- 16 Adoption of a gambling policy is not an executive function and requires the approval of full council having been initially considered and agreed by the statutory licensing committee.

Statutory Consultation

- 17 The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult as part of the review. In addition to the statutory consultees, all existing gambling licensees and several other individuals, agencies, and organisations considered to be affected by the policy were identified and their comments invited.
- 18 A public consultation exercise took place between Monday 6th May and Sunday 16th June and was widely advertised, promoted and available to all on the Council's website.
- 19 Three responses to the consultation were received directly by DCC Licensing Services. These are included in Appendix 3. Where appropriate, changes have been made to the policy to reflect comments that were received. These amendments are listed in Appendix 4 Table of Changes.
- 20 There were also a number of comments regarding the promotion of public health. Whilst every effort has been made to ensure children and vulnerable adults are protected, public health in its broadest term is not a licensing objective of the Gambling Act 2005 and therefore direct references, and actions, could not be incorporated into the policy document.
- 21 Comments made regarding future enforcement activity will be considered as part of the Licensing team's ongoing work plan.

Main implications

- 22 A failure to review, revise and update the Council's Gambling Act 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 Gambling Act licensing process. The council would be open to charges of maladministration and to legal challenges.

Conclusion

- 23 The proposed revised Gambling Policy reflects changes in legislation and Gambling Commission Guidance. It also contains information to assist applicants to risk assess areas where the gambling premises will operate. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.

Background papers

- Durham County Council's Gambling Act 2005 current Statement of Principles.
- Gambling Commissions Guidance to licensing authorities – Published 1 April 2021, last updated 11 April 2023

Other useful documents

- None

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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 three-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 Impacts Assessment screening has demonstrated that the policy / revisions to the policy have no impact on people with protected characteristics.

Climate Change

There are no climate change implications.

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. 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: Draft Gambling Policy

Attached as separate document

Appendix 3: Consultation Responses

Attached as separate document.

Appendix 4: Table of Changes - The proposed amendments to the policy resulting from the consultation and review process.

Attached as separate document.