



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Gambling Act 2005 – Statement of Principles Review and Consultation	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team December 15 th February 2022	X
	Full Licensing Committee 15 th December 2021	X
	LDL 21 st February 2022	
	LAG 2 nd March 2022	
	LOAG IAAG 3 rd March 2022	
	Full Licensing Committee 8 th March 2022	
	Full Council 14 th March 2022	



Is this an Executive Decision:	NO	Is this a Key Decision:	NO
Is this in the Forward Plan:	YES	Is the Report Confidential: If so, please state relevant paragraph from Schedule 12A LGA 1972:	NO []

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Interim Monitoring Officer: **Chris Ebberley**

Date ...9.02.22..... Signature

Chief Finance Officer: **Sal Khan**

Date ...10.02.22..... Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

**Report to Council
Date: 14 March 2022**

REPORT TITLE: Gambling Act 2005 – Statement of Principles Review and Consultation

PORTFOLIO: Enforcement Services

HEAD OF SERVICE: Mark Rizk

CONTACT OFFICER: Margaret Woolley Ext. No. x1479

WARD(S) AFFECTED: All

1. Purpose of the Report

- 1.1. To advise the Authority has a duty to review the current Gambling Act Statement of Principles in relation to the Gambling Act 2005.
- 1.2. To bring before the Licensing Committee the outcome of the approved consultation exercise for the Council's draft Gambling Statement of Principles. The public consultation exercise concluded on 12 January 2022.

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. The policy is now due to be revised to cover the next successive three year period until 2025.

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 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 time to revise the Policy to cover the next three years' to cover February 2022 to February 2025.
- 3.3. The Council has consulted for 28 days on the proposed changes. This concluded on 12 January 2022.
- 3.4. The Licensing Committee approved the draft policy as suitable for consultation purposes and are now required to review any comments received during the consultation period prior to Full Council for adoption.

4. Contribution to Corporate Priorities

- 4.1. Environment Health and Well Being

5. Report

- 5.1. Enforcement Services includes the Licensing Function.
- 5.2. The Gambling Act 2005 was fully implemented on 1st September 2007. The Act introduced new responsibilities for Licensing Authorities, to undertake a number of licensing functions in relation to gambling premises.
- 5.3. Section 349 of the Gambling Act 2005 requires the Council (The Licensing Authority) to prepare and publish a Gambling Act Policy "Statement of Principles" that it proposes to apply in exercising its licensing 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 2019.
- 5.4. The Act provides for three categories of licence:
 - Operating licences
 - Personal licences; and
 - Premises licences.
- 5.5. The Gambling Commission issues Operating licences and Personal licences and Licensing Authorities issue Premises Licences.
- 5.6. The Gambling Act 2005 places a responsibility for the licensing of gambling premises and the issuing of permits with Local Authorities, with associated responsibility of ensuring that the conditions on these licences are upheld. Amongst other matters the 2005 Act deals with the licensing of:
 - Casinos
 - Betting shops
 - Bingo halls
 - Amusement 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).

5.7. Central to the Gambling Act are the licensing objectives.

5.8. These are:

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

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

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

- The Chief Officer of Police,
- One or more persons who appear to the Licensing 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.

5.11. 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 Statement.

5.12. Section 154 of the 2005 Act indicates that adoption of the Statement (Gambling Policy) cannot be delegated to the Licensing Committee. Therefore, Full Council must adopt the final document.

5.13. 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.

5.14. Appendix 2 details a matrix of changes within the policy. The changes are:

- An update to the Maps in the Local Area Assessment at page 42 to show where there has been a reduction in premises

- An update to Appendix B – Category B2 Gaming Machines Maximum Stake reduced to £2 from £100
- 5.15. The current policy was published in 2019 and therefore a reviewed policy will need to be published in 2022.
- 5.16. Three responses were received to the consultation. These are attached as Appendix 3.
- 5.17. Two responses supported the Statement of Principles with no amendments.
- 5.18. The third response is from Gosschalks (a Legal Firm) The Statement of Principles has been updated to reflect the comments.

Comment: Paragraph 1.10 in Part B “The Council will need to be satisfied that there is sufficient evidence that the particular location of the premises will be harmful to the licensing objectives.” The paragraph does not, however go on to specify the consequence of the Council being satisfied that the location of premises would be harmful to the licensing objectives.

Response: The options available to the Council are contained within 1.14.

Comment: There is a heading on page 13 reading “Promotion of the Licensing Objectives”. This heading should be amended to avoid any confusion with requirements under Licensing Act 2003. Under Gambling Act 2005 the operation of premises and applications for new licences are required to be “reasonably consistent” with the licensing objectives. There is no requirement upon any entity other than the Gambling Commission to promote the licensing objectives. In the circumstances this heading should be amended.

Response: Heading amended to read “Promotion of the Licensing objectives for the Gambling Act 2005”.

Comment: Paragraphs 11.2 to 11.4 explain the Licensing Authority’s approach to betting machines in betting premises. This section would be assisted if a clear distinction was made between betting machines and gaming machines.

Response: This section has been updated. 11.2 and 11.3 has been updated to highlight the difference between Betting Machines and Gaming Machines.

6. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: [Anya Murray]

- 6.1. There are no financial issues arising from this report apart from the cost of consultation which will be met from existing service resources.

7. Risk Assessment and Management

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

7.2.1. The 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.

7.2.2. Ensure consistency of the licensing function by the Council in the exercise of its duties.

7.3. **Negative** (Threats):

7.3.1. N/A

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
Glen McCusker – Interim Solicitor]*

8.1. These are contained within the body of this Report.

9. **Equalities and Health**

9.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised.

9.2. **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.

10. **Human Rights**

10.1. There are no Human Rights issues arising from this Report.

11. **Sustainability** (including climate change and change adaptation measures)

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

12. **Recommendation(s)**

12.1. That the Council considers the draft revised Gambling Act Statement of Principles,

12.2. That the Licensing Committee consider the responses to the consultation exercise,

12.3. That the Licensing Committee recommend to Full Council that they consider the amended policy as suitable for adoption.

13. **Background Papers**

13.1. Gambling Commission Guidance to Local Authorities updated May 2021 - <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

14. **Appendices**

14.1. Appendix 1: Draft Gambling Act Statement of Principles 2022-2025

14.2. Appendix 2: Matrix of changes

14.3. Appendix 3: Responses to the consultation.