

LICENSING AND SAFETY COMMITTEE

8 APRIL 2021

GAMBLING ACT 2005 STATEMENT OF GAMBLING POLICY 2022 - 2025

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Summary

The Gambling Act 2005 requires that the Council publish a 'Statement of Licensing Principles', referred to in the Council's Constitution as the Statement of Gambling Policy, that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Council's current Policy Statement was published in January 2019. This report provides Members with information and guidance on a revised Statement of Gambling Policy under the Gambling Act 2005 and requests approval for public consultation.

1. Budget and policy framework

1.1 The Statement of Gambling Policy ("the policy") under the Gambling Act 2005 is a policy framework document and final approval is a matter for Full Council following consideration by the Licensing and Safety Committee, the Business Support Overview and Scrutiny Committee and Cabinet.

2. Background

2.1. The Gambling Act fully came into force in September 2007 although the "first appointed day" (when the Council could start to receive applications) was 31 January 2007. In preparation, each licensing authority was required to develop, consult and publish a statement of its licensing policy and principles. The current statement, which is attached at Appendix A sets out the principles which the authority applies in exercising its licensing function under the Act.

2.2. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.3. The Statement of Policy document, along with the Gambling Act 2005 and the Objectives and Gambling Commission Guidance, will all be referred to when considering applications in respect of the following: -

- Premises licences (this includes casinos, bingo halls, adult gaming centres, family entertainment centres, race tracks and betting shops).
- Permits (licensed premises gaming machine permits, club permits, prize gaming permits, notification of two or less machines).
- Lotteries (small society lotteries, incidental non-commercial lotteries, private lotteries and customer lotteries).
- Temporary use notices and occasional use notices for short-term gambling events.

2.4. The Gambling Commission is responsible for granting operating licences and personal licences to commercial gambling operators and people working in the industry. It also regulates certain lottery managers and promoters.

2.5. The Statement of Policy needs to provide clarity to applicants and other parties to enhance the application process, to create efficiencies and manage and demonstrate expectations. It should ensure that applicants have a clear understanding of the impacts of their licensed business or proposed activities on others and what they must do to enhance the positive impacts and mitigate any detrimental impacts.

3. Proposal

3.1. It is considered the current Statement of Gambling Policy remains fit for purpose as there have not been any notable changes to legislation or guidance since its implementation.

3.2. Officers are therefore seeking authorisation to consult on the current Statement of Gambling Policy.

3.3. The results of the public consultation will be reported to the Licensing and Safety Committee together with proposals for any revisions to the Statement of Licensing Policy. This would then be considered by Business Support Overview and Scrutiny Committee and Cabinet. It would then be recommended for approval by Full Council on 7 October 2021 and, following one month's notice in a newspaper, the approved revised policy statement would take effect in January 2022.

4. Consultation

4.1 Before determining its policy for any three year period the Licensing Authority must consult the persons listed in section 349(3) of the 2005 Act. These are:

- The Chief Officer of Police
- One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the borough
- One or more persons who appear to the Council to represent persons who are likely to be affected by the exercise of the Council's functions under the Act

4.2 The Statutory Guidance states that the list of persons to be consulted is deliberately wide so as to allow licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Statement of Policy. It is however a matter for licensing authorities to develop their own consultation practices, including the methods for consultation and who they consider it necessary to consult with.

4.3 In accordance with good practice, and previous Statement of Policy consultations, it is therefore proposed to consult with:

- All Ward Councillors
- Parish Councils
- All bodies designated under s.157 of the Act as Responsible Authorities
- Medway Council Trading Standards
- Association of British Bookmakers
- National Casino Forum
- British Amusement Catering Trade Association
- Bingo Association
- The British Horseracing Authority Limited
- British Beer and Pub Association
- British Institute of Innkeeping
- Gamblers Anonymous UK
- Gamcare
- Be Gamble Aware
- National Problem Gambling Clinic
- Responsible Gambling Trust
- Samaritans
- Citizen Advice Bureaux
- Gordon Moody Association
- Medway Licensed Victuallers Association
- Greene King plc
- Enterprise Inns plc

- Admiral Taverns
- J D Wetherspoon
- Shepherd Neame Ltd
- BetFred
- Buzz Bingo
- Cashino Gaming Ltd
- Family Leisure Holdings Ltd
- Ladbrokes Betting and Gaming Ltd
- Power Leisure Bookmakers Ltd (Paddy Power)
- Jennings Racing Ltd
- Moto Hospitality Limited
- Lucky Star Amusements Ltd
- William Hill
- Ivor Thomas Amusements Ltd
- Leisure Link and Inspired Gaming
- The General Public

4.4 A 4-week consultation is proposed, commencing no later than 12 April 2021. Methods of consultation will be via the Council's website and notice board, and by direct email and mail shots.

4.5 All incoming responses will be collated and entered onto a grid for consideration.

4.6 The Licensing Manager will conduct an evaluation of each response and give a recommendation, in consultation with other officers, as to whether or not to amend the policy statement and, if so, to what extent.

4.7 The grid and recommendations will be brought back to the Licensing and Safety Committee for further, post-consultation consideration.

4.8 The amended version of the Medway Statement of Licensing Policy under the Gambling Act 2005 will then be presented to Business Support Overview and Scrutiny and Cabinet before being presented to Full Council on 7 October 2021 for approval and publication thereafter.

5. Risk management

5.1 This review of the Statement of Gambling Policy is a key document in relation to the Council's position in continuing to implement the Gambling Act's objectives and consideration of subsequent gambling licence applications.

6. Financial and legal implications

- 6.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.
- 6.2 The Authority's Statement of Gambling Policy provides the framework on which the Licensing Service under the Gambling Act 2005 is administered. This policy is not only important in setting out the licensing authority's approach to the Gambling Act; it will also be considered and referred to by the Magistrates' Court on appeal. The Magistrates' Court may decide to depart from the policy if they have good reason for doing so.
- 6.3 The Magistrates' Court may also decide that an appealed decision of the Authority was not reflective of the policy and that no good reason was given by the authority to depart from the policy when making that decision. In that case the appealed decision may be referred back to the local Authority to reconsider in line with its policy.
- 6.4 An inappropriately worded policy could result in a legal challenge by way of judicial review. The policy has been prepared taking account of the guidance issued by the Gambling Commission.

7. Recommendations

- 7.1 That the Committee authorise officers to place the current Statement of Gambling Policy at Appendix A on the Council's website, advertise it and consult with all relevant interested parties.
- 7.2 That the results of the consultation to be reported back to a future Licensing and Safety Committee meeting together with a revised draft Statement of Gambling Policy, prior to consideration by Business Support Overview and Scrutiny Committee and Cabinet and recommendation to Full Council for approval.

Lead officer contact

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Appendices

Appendix A – Current Statement of Gambling Policy 2019 - 2022

Background papers
None