

BUSINESS SUPPORT OVERVIEW AND SCRUTINY COMMITTEE

19 AUGUST 2021

STATEMENT OF GAMBLING POLICY 2022 TO 2025

Report from: Bhupinder Gill, Assistant Director Legal and Governance

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Summary

To present Members with the consultation responses received in respect of the draft revised Gambling Policy. The report includes an evaluation of each response and gives a recommendation as to whether or not to amend the draft revised policy statement and, if so, in what way and to what extent. Members' input is sought in finalising the policy statement for publication and implementation subject to approval by Full Council.

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. Section 349 of the Gambling Act 2005 requires Licensing Authorities to prepare and publish a Statement of Licensing Policy every three years. Such a policy must be published before the authority carries out any function in respect of applications made under the 2005 Act.

2.2. The current Statement of Licensing Policy under the Gambling Act 2005 was approved by Council on 19 July 2018 and was published on 3 January 2019. A new policy will therefore need to be adopted by Full Council on 7 October 2021 and published no later than 3 January 2022.

3. Proposed Revisions

- 3.1. A review of the existing policy was carried out by the Senior Licensing Officer to highlight areas of policy in need of revision or removal. The areas of change are as follows:
- 3.1.1. Adding more information on the registration of Small Society Lotteries at pages 32 and 33 of the policy.
 - 3.1.2. Removal of a duplication of the details on the Responsible Authorities. In the 2019 – 2022 version of the policy, section 5 on page 9, section 32 on page 34 and Appendix B were all about the Responsible Authorities. Section 32 has been removed from the draft policy.
 - 3.1.3. Amendment of the contact details for the Licensing Authority on page 37 of the policy.
 - 3.1.4. Removal of Appendix D – Council Policies and Plans web links. These change on a regular basis, so it was decided to remove the direct links as they would expire during the period of the policy.
 - 3.1.5. As the Local Government Boundary Commission is in the process of reviewing the boundaries of Medway Council, it was decided to remove the specific details.
- 3.2. These amendments have been made to the draft policy document attached at Appendix 1.

4. Consultation

- 4.1 A four week consultation took place between 16 April and 14 May 2021 during which the following bodies were invited to comment on the draft policy:
- All Ward Councillors.
 - All Parish Councils.
 - Gambling Commission.
 - Kent Police.
 - Fire and Rescue.
 - Medway Planning.
 - Medway Environmental Protection.
 - Medway Safeguarding Children Partnership.
 - Her Majesties Revenue and Customs.

- Medway Trading Standards.
- Association of British Bookmakers.
- 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.
- GambleAware.
- National Problem Gambling Clinic
- Samaritans.
- Citizens Advice Bureau.
- Gordon Moody Association
- Greene King Plc.
- Enterprise Inns Plc.
- Admiral Taverns.
- JD Wetherspoon.
- Shepherd Neame.
- Betfred.
- Buzz Bingo.
- Cashino Gaming Limited.
- Family Leisure Holdings Ltd.
- Ladbrokes.
- Paddy Power.
- Jennings Racing Limited.

- Lucky Star Amusements.
- William Hill.
- Ivor Thomas Amusements Ltd; and
- Leisure Link and Inspired Gaming.

4.2 Responses were received from HMRC, GambleAware and Medway's Environmental Protection. These can be found attached as Appendix 2.

4.3 Post consultation the Gambling Commission sent out an email to all Local Authorities, informing them of some small amendments being made to the 'Guidance for Licensing Authorities'. One of the key messages from the Commission was that they did not consider that licensing authorities would have to make any significant changes (if any) to their Statement of Policy in relation to their new guidance. Having reviewed the amendments to the GLA it is not deemed necessary to make any changes to the policy.

5. Licensing and Safety Committee

5.1 The Licensing and Safety Committee considered the consultation responses and draft policy document at its meeting of 13 July 2021 and an extract from the record of the meeting is below.

Discussion:

The Committee considered a report on the consultation responses received in respect of the draft revised Gambling Policy. The consultation had run for four weeks, and the three responses which had been received were attached as an appendix to the report.

Members noted the proposed revisions to the policy, which included the addition of more information on the registration of Small Society Lotteries and a number of administrative amendments.

The draft revised policy incorporating the proposed amendments was attached as an appendix to the report and officers were praised for producing a well written document.

Decision:

The Committee:

- noted the responses to the consultation and officers' proposed amendments to the policy document as set out in paragraph 3 of the report; and
- proposed no further amendments to the draft policy document prior to its consideration by the Business Support Overview and Scrutiny

Committee and Cabinet, and recommendation to Full Council for approval.

6. Risk management

- 6.1 Whilst each individual application will be judged on its own merits, a documented policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the Courts. Challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered to its published policy and there was no reason to depart from it. Any departure from the policy will be based on material evidence and will be documented giving clear and compelling reasons for such departure.

7. Financial implications

- 7.1 The cost of consultation and publishing an updated policy will be met from within existing budgets.
- 7.2 The Statement of Gambling Policy is not envisaged to place any new financial pressures on the Council.

8. Legal implications

- 8.1 Section 349 of the Gambling Act 2005 requires each licensing authority to prepare and publish a statement of principles that they propose to apply in exercising their functions under the Act. The Policy will last for a 3 year period but can be reviewed at any time during that period.
- 8.2 Rights of appeal to the Magistrates' Court are granted to all applicants and licensees who are aggrieved by any licensing decisions.
- 8.3 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.

9. Recommendations

- 9.1 That the Committee:
- 9.1.1 notes the responses to the consultation, as attached at Appendix 2;
- 9.1.2 comments of the draft policy document attached at Appendix 1, including officers' proposed amendments as set out in paragraph 3 of this report; and

- 9.1.3 propose any further amendments to the draft policy document prior to its consideration by Cabinet and recommendation to Full Council for approval.

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Appendices

Appendix 1 – Draft Medway Statement of Gambling Policy 2022 - 2025
Appendix 2 – Consultation responses.

Background papers

None