

## **CABINET**

**28 SEPTEMBER 2021**

### **STATEMENT OF GAMBLING POLICY 2022 TO 2025**

Portfolio Holder: Councillor Jane Chitty, Portfolio Holder for Planning, Economic Growth and Regulation

Report from: Bhupinder Gill, Assistant Director Legal and Governance

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#### **Summary**

This report presents 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.

The report has previously been considered by the Licensing and Safety Committee on 13 July 2021 and by the Business Support Overview and Scrutiny Committee on 19 August 2021.

#### **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 report at its meeting held on 13 July 2021 and its comments are set out as follows:
- 5.2. 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.
- 5.3. 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.
- 5.4. 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.
- 5.5. The Committee:
- (a) noted the responses to the consultation and officers' proposed amendments to the policy document as set out in paragraph 3 of the report; and
  - (b) 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. Business Support Overview and Scrutiny Committee

6.1. The Business Support Overview and Scrutiny Committee considered the report at its meeting on 19 August 2021 and its comments are set out as follows:

6.2. The Committee was advised that, under the Gambling Act 2005, Licensing Authorities were required to prepare and publish a Statement of Gambling Policy every three years. Members considered a report on the draft policy statement for 2022 to 2025, including the responses received during a four-week consultation period.

6.3. 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.

6.4. Members raised the following issues for discussion:

- **Small Society Lotteries** – Officers confirmed that registration was required for lotteries where tickets were sold over a period of time and the tickets state the date of the draw. No registration was required for tickets sold and drawn on the day of an event.
- **NHS support** – A Member was pleased to note that the NHS support available for gambling addiction had increased.
- **The relationship between the Gambling Policy and Public Space Protection Orders (PSPOs)** – Members were advised that the Licensing Authority was not involved with PSPOs.
- **Protecting children from harm** – Officers confirmed that the policy statement did refer to protecting children from harm and noted that Members may wish for this to be expanded. However, this was more relevant to the Gambling Commission's policy. It was recognised that there would be children in Medway with a gambling addiction and a Member suggested that awareness of this issue should be raised in schools. On the issue of underage testing, officers advised that, as a Licensing Authority, the Council did not have the powers to undertake such testing. It was noted that some larger companies organised their own test purchasing and advised Licensing Authorities of the results.
- **Gambling advertising** – A Member noted that a parliamentary paper on the regulation of gambling advertising had recently been published. Officers confirmed that, should any recommendations from this be agreed within the period of the Council's gambling policy, they would be incorporated.
- **Maximum stake of gaming machines** – A Member was pleased to note that the maximum stake for category B2 gaming machines was £2 and not £100 and that the Council had played a part in this decision.

- **Training for front-line staff** – Officers agreed to liaise with Workforce Development regarding the possibility of providing training to front-line staff on how to recognise people that may have a problem with gambling.

#### 6.5. The Committee:

- a) noted the responses to the consultation and officers' proposed amendments to the policy document as set out in paragraph 3 of the report;
- b) commented on the draft policy document attached at Appendix 1 to the report, including officers' proposed amendments as set out in paragraph 3 of the report; and
- c) proposed no further amendments to the draft policy document prior to its consideration by Cabinet and recommendation to Full Council for approval.

### 7. Risk management

- 7.1. 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.

### 8. Financial implications

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

### 9. Legal implications

- 9.1. 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.
- 9.2. Rights of appeal to the Magistrates' Court are granted to all applicants and licensees who are aggrieved by any licensing decisions.

9.3. 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.

## 10. Recommendations

10.1. The Cabinet is requested to:

10.1.1 Note the responses to the consultation as attached at Appendix 2 to the report and officers' proposed amendments to the policy document as set out in paragraph 3 of the report;

10.1.2 Note the comments of the Licensing and Safety Committee and the Business Support Overview and Scrutiny Committee, as set out in sections 5 and 6 of the report; and

10.1.3 Recommend the draft Medway Statement of Gambling Policy 2022-2025, as set out in Appendix 1 to the report, to full Council for approval.

## 11. Suggested reasons for decisions

11.1. The Statement of Gambling Policy sets out how the Council will regulate licensable activities, as required by the Gambling Act 2005.

### Lead officer contact

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### Appendices

Appendix 1 – Draft Medway Statement of Gambling Policy 2022 - 2025

Appendix 2 – Consultation responses.

### Background papers

None