

Council

17 October 2024

Statement of Gambling Policy 2025-2028

Portfolio Holder: Councillor Alex Paterson, Portfolio Holder for Community Safety, Highways and Enforcement

Report from: Bhupinder Gill, Assistant Director, Legal and Governance

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Summary

This report presents the consultation responses received in respect of the draft revised Statement of 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. The Council is requested to approve the Statement.

The report has previously been considered by the Licensing and Safety Committee on 6 August 2024, by the Business Support Overview and Scrutiny Committee on 21 August 2024 and by the Cabinet on 1 October 2024, the comments and decisions of which are set out at sections 6, 7 and 8 of the report respectively.

1. Recommendations

- 1.1. The Council is asked to note the responses received during the consultation.
- 1.2. The Council is asked to note the comments made by the Licensing and Safety Committee on 6 August 2024 and the Business Support and Digital Overview and Scrutiny Committee on 21 August 2024 and the decisions of the Cabinet, as set out in sections 6, 7 and 8 of the report.
- 1.3. The Council is asked to approve the Draft Statement of Gambling Policy 2025-2028, as set out in Appendix A to the report.

2. Budget and policy framework

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

3. Background

- 3.1. Section 349 of the Gambling Act 2005 requires Licensing Authorities to prepare and publish a Statement of Gambling 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.
- 3.2. The current Statement of Gambling Policy was approved by Council on 7 October 2021, published on 3 January 2022, took effect on 31 January 2022 and will expire on 30 January 2025. A new policy will therefore need to be adopted at Council on 17 October 2024.

4. Risk Management

- 4.1. 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. The Gambling Commission publish a 'Guidance to Licensing Authorities' document as prescribed by the Gambling Act 2005.

5. Consultation

- 5.1. A four-week consultation was carried out from 26 June to 23 July 2024.
- 5.2. Consultees and the consultation methodology were as previously outlined to, and approved by, the Licensing and Safety Committee.
- 5.3. One response was received from GamCare. The response and an evaluation of it can be found in Appendix A.
- 5.4. It is recommended that we make no changes to the draft policy following the consultation. The draft policy can be found at Appendix B.

6. Licensing and Safety Committee

- 6.1. The Licensing and Safety Committee considered the consultation response and draft policy document at its meeting of 6 August 2024 and an extract from the record of the meeting is below:
- 6.2. The Assistant Licensing Manager summarised the contents of the report and informed the Committee that there had been one response to the consultation from Gamcare. The Committee were informed that it was not intended to make any changes to the policy following the consultation process.
- 6.3. Members recommended that officers liaise directly with Public Health in future to ensure that they have an opportunity to raise any public health concerns related to the Gambling Policy.

6.4. **Decision:**

- a) The Committee noted the response received during the consultation and did not request any amendments to the draft policy.
- b) The Committee recommended approval of the draft policy to Business Support and Digital Overview and Scrutiny Committee, Cabinet and Council.

7. Business Support and Digital Overview and Scrutiny Committee

7.1. The Business Support and Digital Overview and Scrutiny Committee considered the consultation response and draft policy document at its meeting of 21 August 2024 and an extract from the record of the meeting is below:

7.2. The Assistant Licensing Manager introduced the report, the Gambling Act 2005 required the Local Authority to review the statement of gambling policy every three years. The amended policy proposed only minor changes to the policy to update weblinks and to ensure the policy met accessibility guidance.

7.3. A consultation had taken place and one response had been received.

The following issue was discussed:

7.4. **Online gambling** - Members commented that any proposal to restrict gambling in Medway would result in people moving to online gambling. The Assistant Licensing Manager agreed, the policy ensured gambling shops had the right policies and were inspected. Online gambling was a matter for the Gambling Commission, however, further restrictions would, in her view, be self-defeating.

7.5. **Decision:**

- a) The Committee noted the response received during the consultation and advised on any amendments to the draft policy.
- b) The Committee recommended approval of the draft policy to Cabinet and Council.

8. Cabinet

8.1. The Cabinet considered the consultation response and draft policy document at its meeting of 1 October 2024 and the Cabinet decisions are set out below:

8.2. The Cabinet noted the response received during the consultation.

8.3. The Cabinet noted the comments made by the Licensing and Safety Committee on 6 August 2024 and the Business Support and Digital Overview and Scrutiny Committee on 21 August 2024, as set out in sections 7 and 8 of the report.

8.4. The Cabinet agreed to recommended approval of the draft policy to Full Council.

9. Financial implications

9.1. The cost of consultation and publishing an updated policy will be met from within existing budgets.

10. Legal implications

10.1. 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.

10.2. Rights of appeal to the Magistrates Council are granted to all applicants and licensees who are aggrieved by any licensing decisions.

10.3. 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.

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Appendices

Appendix A – Consultation responses and evaluation

Appendix B – Draft Statement of Gambling Policy 2025-2028

Background papers

None