

Adoption of the Statement of Licensing Policy Principles Under S.349 Of The Gambling Act 2005

Committee considering report:	Licensing Committee
Date of Committee:	Licensing Committee 8 November 2021 Council 02 December 2021
Portfolio Member:	Councillor Hilary Cole
Date Service Director agreed report:	05 October 2021
Date Portfolio Member agreed report:	Emailed on the 12 October 2021
Report Author:	Sean Murphy
Forward Plan Ref:	C4045

1 Purpose of the Report

- 1.1 To consider the responses received during the twelve week consultation period and make a recommendation to Council that it adopts the Statement of Licensing Policy Principles under the Gambling Act 2005 (hereafter referred to as The Statement) as set out in Appendix 1.

2 Recommendation

- 2.1 That the Licensing Committee:
- (a) **NOTES** the outcome of the consultation;
 - (b) **CONSIDERS** any amendments needed to be made to the draft Statement of Gambling Principles arising from the consultation;
 - (c) **DELEGATES** Authority to the Service Director (Development and Regulation), in consultation with the Portfolio Holder, to make any minor corrections to the Statement prior to inclusion in the Council agenda.
 - (d) **RECOMMENDS** to Full Council that the Statement be adopted, subject to any amendments agreed at the meeting.
- 2.2 That Full Council:
- (a) **CONSIDERS** the Statement and the consultation responses received.

- (b) **DELEGATES** Authority to the Service Director (Development and Regulation), in consultation with the Portfolio Holder, to make any minor corrections to the Statement prior to publication.
- (c) **APPROVES** the Statement for adoption and publication by the 31st January 2022.

3 Implications and Impact Assessment

Implication	Commentary			
Financial:	<p>The costs of producing this report and running the consultation exercise were met from within the existing Public Protection Partnership budgets.</p> <p>There are no direct costs associated with the implementation of the policy</p>			
Human Resource:	None			
Legal:	<p>This Statement of Principles has to be published in accordance with s349 of Gambling Act 2005 and is required to set out the principles that the licensing authority proposes to apply when exercising its functions under the Act. The licensing authority must publish its Statement of Principles at least every three years.</p>			
Risk Management:	<p>The Council is required to renew the statement every three years. A failure to do so and consult properly could result in any decisions and the policy being challenged in the Courts.</p>			
Property:	None			
Policy:	<p>The licensing authority must publish its Statement of Principles at least every three years. The previously adopted iteration is due to expire in January 2022. The Council is required to consult on any changes being proposed.</p>			
	Positive	Neutral	Negative	Commentary

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Equalities Impact:			
<p>A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?</p>		X	<p>In applying this Policy, no particular group is given priority over another in relation to Implementation of the Policy and how any applicant is dealt with. Applications are assessed on their individual merits. Where applicants ask for information in alternate formats these can be provided.</p> <p>The Council is not in a position where it can proactively affect the profile of licence holders, but the Policy ensures that the process of obtaining a licence is fair and free of discrimination and there are no barriers to anyone making an application. The Council would provide documents in alternative formats where required.</p> <p>On consideration, the overall conclusion of the EIA is that there is no negative impact on any characteristic or group as a result of this Policy.</p>

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<p>B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?</p>		X	<p>The protection of children and other vulnerable people from gambling within the policy clearly has a benefit relating to these groups. For most gambling activity you have to be 18 (16 for some activities), and so the statement of principles protects those of this age. References to age are made throughout the policy i.e. Protecting children from being harmed or exploited by gambling is a key Licensing objective enshrined in the legislation.</p> <p>Within society there are vulnerable people who may develop addictions to gambling. Whilst the law requires licensed gambling premises to monitor those who gamble regularly and also to have self-exclusion schemes, historically this has been a difficult problem to deal with as Adult Safeguarding departments are not responsible authorities. They have however been consulted during the consultation phase of the revision of the policy. They did not submit any comments on the policy.</p> <p>While public health commented on the fact that gambling lower income families and had an adverse impact on mental health and deprivation they made no specific comments on those with protected characteristics.</p> <p>No other comments about people with protected characteristics were received during the consultation.</p>
<p>Environmental Impact:</p>		X	<p>There are no environmental implications that result from the policy.</p>

Health Impact:		X		<p>Gambling related harm is recognised as a ‘co-morbidity’ (i.e. one of a range of conditions existing in an individual that exacerbates pre-existing conditions and contributes toward a reduced life expectancy). It is often observed in people who suffer from poor mental health, stress or anxiety, substance misuse and by those in financial difficulties.</p> <p>Information on some of these issues can be found on the Public Health for Berkshire website at: https://westberkshire.berkshireobserver.co.uk/health-and-social-care/</p> <p>This Statement sets out our expectations of operators of gambling premises and is kept under review.</p>
ICT Impact:		X		None
Digital Services Impact:		X		The statement will be published on the Council’s website.
Council Strategy Priorities:		X		Ensure our vulnerable children and adults achieve better outcomes. Support businesses to start, develop and thrive in West Berkshire
Core Business:		X		Business as Usual
Data Impact:		X		Not applicable
Consultation and Engagement:	The draft Statement of Gambling Policy was the subject of a 12 week public consultation. In addition the organisations referred to in paragraph 6.5 were asked for their comments on the draft policy.			

4 Executive Summary

- 4.1 This Statement of Principles has to be published in accordance with s349 of Gambling Act 2005 and is required to set out the principles that the licensing authority proposes to apply when exercising its functions under the Act. The licensing authority must

publish its Statement of Principles at least every three years. The current Statement is due to expire in January 2022.

- 4.2 The purpose of the Statement is to guide the administration of licensing under the Act and will assist in ensuring that an appropriate balance is drawn between the interests of those wishing to provide and take part in legal gambling, and those who might be affected by such activities. The Council continues to work with the Police, licence holders, responsible authorities and other agencies to achieve this objective.
- 4.3 Under the Act, the licensing authority is required to consult a number parties as a minimum before finalising its Statement. The consultation, which was undertaken between the 05 July 2021 and 27 September 2021, has now been concluded and the responses collated.
- 4.4 The outcome of the consultation will be considered by the Licensing Committee who will then be asked to make a recommendation to Full Council that the revised Statement of Gambling Principles be adopted subject to the inclusion of any amendments they put forward at the meeting.

5 Supporting Information

Introduction

- 5.2 The Gambling Act 2005 (hereafter referred to as the Act) removed from the Magistrates' Court all responsibility for granting gaming and betting permissions. It introduced the Gambling Commission, which, alongside licensing authorities, assumed a shared responsibility for all matters previously regulated by Magistrates.
- 5.3 Licensing Authorities have powers to licence gambling premises within their area, as well as undertaking functions in relation to lower stake gambling machines and clubs. The Act also provides for a system of Temporary Use Notices which authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling for strictly limited periods.
- 5.4 The Act requires the Council to prepare, adopt and publish a "Statement of Principles" setting out the Licensing Authority's approach to applications under the Act and the information it expects applicants to provide at least every three years.
- 5.5 The current Gambling Statement of Licensing Policy Principles was adopted at the Full Council meeting on 06 December 2018 and was published and came into effect 31 January 2019. The Statement must therefore be revised and republished by the 30 January 2022.
- 5.6 The purpose of the Statement is to guide the administration of licensing under the Act and will assist in ensuring that an appropriate balance is drawn between the interests of those wishing to provide and take part in legal gambling, and those who might be affected by such activities. The Council continues to work with the Police, licence holders, responsible authorities and other agencies to achieve this objective.
- 5.7 The Act contains three licensing objectives that underpin the functions that the Licensing Authorities perform and which are central to the regulatory regime. They are:

- I. preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- II. ensuring that gambling is conducted in a fair and open way;
- III. protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.8 In September 2021 West Berkshire had twelve betting premises including one racecourse, eight adult gaming centres, one Bingo premise, seven Club Machine Permits, four Family Entertainment Centres and eighty three notifications of fewer than two machines and eight premises with two or more gaming machines.

6 Review of Statement Of Principles

6.1 David Lucas (James Button & Co Solicitors) on behalf of the Public Protection Partnership had reviewed the existing Statement prior to the consultation process starting. Minor changes were proposed when compared to the previous iteration of the report. A section on small society lotteries was added and the policy was amended to make it compliant with the current legislation and regulations as well as making it consistent with the very recent updates to the guidance to licensing authorities published by the Gambling Commission.

6.2 The opportunity was also taken to provide some additional information in order to assist anyone reading the policies to understand the various sections. The general aim of the review was to ensure that the policies are both up-to-date and informative.

6.3 The Draft Statement was presented to the Licensing Committee at the 21 June 2021 meeting. A number of minor changes were requested at this meeting prior to it being issued for consultation. These changes included some formatting adjustments (including updating the contents table justification of the text and that the footer being updated). The Committee requested that reference be made to the documentation being in place from 31 January 2022 to 30 January 2025 that acronyms be explained and that the guidance be defined at the start of the document and that then thereafter it be referred to as 'the guidance'.

6.4 The Licensing Committee agreed that the statutory consultation on the Draft Statement would be undertaken for a 12 period weeks between 05th July 2021 and 27th September 2021. A public notice was placed in both the Newbury Weekly News and the Reading Chronicle. Information was also placed on the West Berkshire and Public Protection Partnership websites.

6.5 Letters or email were also sent to:

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Building Control

- Committee of Registered Club Associations
- Gamblers Anonymous
- Gambling Commission
- GAMCARE
- Health and Wellbeing Board
- HM Revenue and Customs
- Holders of existing gambling licences / permits
- National Association of Bookmakers
- Parish and Town Councils
- Public Consultation Portal
- Public Health Team
- Royal Berkshire Fire and Rescue
- Thames Valley Police
- West Berkshire Council Environmental Health
- West Berkshire Council Planning
- West Berkshire Safeguarding Adults Board
- West Berkshire Safeguarding Children Board

6.6 Responses to the consultation were received from Greenham Parish Council and West Berkshire Environment Health who both stated that they did not wish to raise any objections to the proposed Statement. Some comments were also received from West Berkshire Council's Public Health and Wellbeing Team as set out in Appendix 2.

7 Key Changes to the Draft Statement Following the Consultation

7.1 The comments from Public Health and Wellbeing West Berkshire requested that consideration be given to the cumulative impact of gambling given the impact gambling had on the poorest in society. They also noted that gambling was associated with poor mental health and deprivation. The team asked that public health principals be considered when processing licencing applications for new venues. They also requested that some joint work around the promotion of advocacy and support for those who are affected by gambling.

7.2 However, under section 349 of the Gambling Act 2005 a licensing authority is required to prepare a Statement of Licensing Policy containing the principles that they propose to apply in exercising their functions under the Act. As the protection of public health is not one of those functions, the comments, whilst helpful, are not directly relevant to the subject matter of the Policy. It is proposed that some of the issues raised by Public Health could be dealt with by changing some operational practices.

8 Other options considered

8.1 None. It is a statutory requirement to review and publish this policy.

9 Conclusion

9.1 Members of the Licensing Committee are asked to consider the draft policy and the comments received during the consultation period and then recommend that the draft policy be recommended to Council for approval at the 02 December 2021 meeting subject to the inclusion of any additional amendments agreed at the meeting.

10 Appendices

10.1 Appendix 1 – Draft Statement of Gambling Principles 2022 – 2025

10.2 Appendix 2 – Comments received during the consultation

Background Papers:

- The Gambling Act 2005
- [Guidance to licensing authorities - Gambling Commission](#)
- The Statement of Gambling Principles 2019-2022

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All

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