



**Gambling Act 2005
Review of Statement of Licensing Policy**

Report by the Director for Communities

1.0 Summary

1.1 Members are invited to review the draft Statement of Gambling Licensing Policy in relation to the Gambling Act 2005, and then invite Council to endorse its recommendations and adopt an updated policy on 31 October 2019.

1.2 In accordance with the statutory requirements of the Gambling Act 2005 (the act) the Council's Statement of Gambling Licensing Policy has been reviewed following consultation with the authorities, stakeholders, interested parties and public. The consultation list is attached at Appendix A

1.3 Changes to the policy are incorporated including new sections on:

- Section D - Permits, Notices & Registrations
- Section F - Health & Wellbeing.

Other sections have minor amendments but changes to the policy are generally limited to the updating of the policy to reflect changes made to the Gambling Commissions Guidance to licensing authorities (5th edition – September 2015 and updated in September 2016). The most significant amendments and additions to the policy relate to:

- premises licences and requirement for local risk assessments (page 15 – 19)
- Information sharing and GDPR requirements (page 10 – 11)

There are also some minor changes to incorporate name & date changes and others reflecting changes to legislation.

1.4 The draft Gambling Policy is attached at Appendix B. All changes proposed to the existing policy are highlighted in the draft policy in black type. All changes suggested as a result of representation during consultation, and which were deemed non-controversial, are highlighted in black type and underlined.

2.0 Background

2.1 The Gambling Commission is the lead agency responsible for the administration and enforcement of the Gambling Act 2005. Its responsibilities include the licensing of operators & issuing of personal licences. Local authorities are responsible for the licensing of premises used for gambling within their area, some local enforcement and the issuing of permits.

2.2 Adur District Council's current statement of Licensing Policy under the Gambling Act 2005 was endorsed by this committee and subsequently approved by the

council in 2016. It was approved following an extensive consultation process. The policy was in accordance with both the act and the statutory guidance issued by the Gambling Commission that was current at the time.

- 2.3 The policy, along with the Gambling Commission's guidance, provides the framework for officer and member decision making on applications for gambling premises licences under the act and outlines to applicant's and current operators the council's expectations and business' obligations.
- 2.4 The provisions of the act require the Council review its Statement of Licensing Policy at least every three years. The current policy is now three years old and is now due for review and re-adoption.
- 2.5 In April 2016 changes to the Gambling Act 2005 and its guidance extended control measures that may be used to protect children and other vulnerable persons from being harmed or exploited by gambling. These changes to the licence conditions and codes of practice (LCCP) included a new social responsibility (mandatory) code requiring all operators with gambling premises licences to produce a local risk assessment.
- 2.6 The Gambling Commission's Guidance for Local Authorities sets out details of how to implement these changes including the requirement for operators of gambling premises to produce risk assessments based on the council's policy to show how vulnerable people, including people with gambling dependencies, are protected and to consider as a minimum:
 - whether the premises is in an area of deprivation
 - whether the premises is in an area subject to high levels of crime and/or disorder
 - ethnic profile of residents in the area
 - demographics of the area in relation to vulnerable groups
 - location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather.
- 2.7 Adur District Council's Statement lists other matters that the risk assessments should consider including:
 - unemployment levels;
 - levels of homelessness;
 - gambling, alcohol, drug or mental health support facilities;
 - ethnic considerations;
 - pawn broker/pay day loan businesses in the vicinity;
 - other gambling premises in the vicinity.
- 2.8 Applicants for premises licences and current operators will be able to utilise the information available in the 'Adur & Worthing Community Profile' to assist them in compiling their risk assessment.
- 2.9 The requirement for a risk assessment should give operators, officers and members a better understanding around the risks relating to vulnerability at local levels.

3.0 Consultation

3.1 Between 15 February and 15 March 2019 the draft policy was the subject of an extensive consultation exercise which included Members, Officers, the general public, resident groups, voluntary groups, trade & stakeholder groups and the Responsible Authorities. A list of those directly consulted is attached.

3.2 Only three separate responses were received. These were from:

Stakeholders:

- West Sussex County Council (WSSC) Public Health Lead for Substance Misuse, on behalf of the Director of Public Health

Interested Parties:

- GamCare
- Friends of Shoreham Fort

3.3 Neither Sussex Police or the Gambling Commission made representation

3.4 West Sussex County Council's Director of Public Health made a detailed representation. Ms Holly Yandell on behalf of the WSSC Director of Public Health has suggested a section be included on gambling related harm and its effects. The non-contentious suggestions made in her representation have been incorporated into the draft policy attached in Section F and the representation itself is attached at Appendix C1. As a result of this suggestion officers researched the subject and further information, based on research carried out by Leeds University, has been included in this section.

3.5 Catherine Sweet, Head of Marketing and Communications at the charity GamCare did not comment directly on our draft policy but did send in a list of factors which she recommended Licensing Authorities consider. Her representation is attached at Appendix C2.

3.6 Sharon Penfold, Secretary of Friends of Shoreham Fort, made a representation and her non-contentious suggestions have been incorporated. Her representation is attached at Appendix C3

4. Consideration

4.1 Under the act rights of representation are granted to Responsible Authorities (the Council as Licensing Authority, Gambling Commission, Police, Fire & Rescue Service, Planning Service, Environmental Health, HM Customs and Excise), and Interested Parties (person living close enough to be likely to be effected or having business interests that might be affected). Since the Gambling Act came into force in 2007 none of the applications received by this Licensing Authority, under the act, have given rise to any representations, and no licensing hearings have therefore been necessary.

4.2 Complaints regarding low level illegal gambling taking place at unlicensed premises are occasionally received by this authority and the Gambling Commission. However, no complaints regarding licensed gambling premises and no calls for a

review of a premises licence have been received by this authority since the Act was introduced.

- 4.3 The very minimum of amendments have been made to the draft policy that went out to consultation.
- 4.4 Only three representations were received regarding the draft policy during consultation.
- 4.5 None of the changes made are considered to change the spirit or direction of the policy. The Gambling Act 2005 has not proven to have caused major concerns to this Licensing Authority. No evidence has emerged that the current statement of Licensing Policy is not appropriate and the changes, for the reasons detailed above, are therefore recommended.

5.0 Legal

- 5.1 Section 349 of the Act requires the Council prepare and publish a statement of principles that will apply in exercising its functions under the Act. This statement of principles (the policy) should be applied for a period not exceeding three years. There is no bar to more frequent reviews of the policy and changes can be made to the policy if necessary for example if there are any significant changes to the legislation.
- 5.2. Section 154 of the Act means that only Full Council can approve this policy as the function cannot be delegated to the Licensing Committee. However, the Council may take into consideration any recommendations made by the Committee.
- 5.3 In determining this matter the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses given due weight.
- 5.4 Members must consider each licensing matter on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Gambling Act 2005. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 5.5 All licensing matters, before Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 5.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Gambling Act 2005 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from interested parties and the responsible authorities particularly the Police.

6.0 Implications

6.1 There are no significant equal opportunities or environmental implications. Crime and disorder considerations are included in the Policy.

7.0 Recommendation

7.1 The Committee is asked to consider and recommend to full Council the adoption of the attached draft Statement of Gambling Licensing Policy.

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Background Papers:

- Gambling Act 2005
<http://www.legislation.gov.uk/ukpga/2005/19/contents>
- Guidance issued to Licensing Authorities (Sept 2015)
<http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>
- Adur & Worthing Community Profile
<https://www.adur-worthing.gov.uk/media/media,123248,en.pdf>

Appendices:

- Appendix A - Consultation List
- Appendix B - Draft Statement of Licensing Policy
- Appendix C1-3 – Representations received during consultation

Schedule of Other Matters

1.0 Council Priority

1.1 Statutory requirement.

2.0 Specific Action Plans

2.1 Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified

4.0 Equality Issues

4.1 Matter considered and no issues identified

5.0 Community Safety Issues (Section 17)

5.1 Matter considered in body of report.

6.0 Human Rights Issues

6.1 Matter considered and no issues identified

7.0 Reputation

7.1 Matter considered and no issues identified

8.0 Consultations

8.1 List of those consulted included at appendix A.

9.0 Risk Assessment

9.1 Matter considered and no issues identified

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

12.0 Partnership Working

12.1 Matter considered and no issues identified