

Report to Cabinet 2 October 2024

Gambling Act 2005 – Statement of Licensing Principles

Report of the Democracy and Governance Portfolio Holder

Recommended:

- 1. That the revised Statement of Licensing Principles, annexed to the report, be approved.**
- 2. That the Statement of Licensing Principles, annexed to the report, be effective for a three-year period commencing 31 January 2025 subject to it being kept under review and Council making any changes at such times as it considers appropriate.**

Recommendation to Council

SUMMARY:

- The Council must publish a Statement of Licensing Principles (or policy) detailing its responsibilities under the Gambling Act 2005 every three years.
- Following consultation over the summer, a draft revised Statement of Licensing Principles is recommended for adoption.

1 Introduction

- 1.1** Section 349 of the Gambling Act 2005 requires the Council to publish a Statement of Principles (or Policy) setting out the matters to be considered by the Council when determining applications for licences and permits issued under the Act.
- 1.2** The current Statement was published in January 2022 and the Act requires that the Council review the Statement every three years. Consequently, a draft revised Statement of Licensing Principles, attached as an Annex to this report, is recommended for adoption following a consultation exercise commenced in July whereby the existing Statement was distributed to several organisations including those representing existing licence holders. In addition, a copy was either supplied or made available to all members and several officers within the Council. Consultees had until 4 August 2024 to respond and no comments were received.

2 Background

- 2.1 The Council assumed its responsibilities under the Gambling Act 2005 on 31 January 2007. The Act created a new system of licensing and regulation for commercial gambling in this country. Amongst other changes, it gave local authorities new and extended responsibilities for licensing premises for gambling. In some cases, such as gaming machine arcades, those built upon existing responsibilities. But in other major areas, including betting and bingo, they transferred to local authorities' responsibilities which previously lay with the local magistrates.
- 2.2 The Statement of Licensing Principles sets out the matters that will be considered when determining applications submitted under the Act. Unlike the Licensing Act 2003, the Gambling Act 2005 makes the adoption of the Statement an executive function, albeit that it must be the subject of a recommendation to the full Council. This matter is therefore brought before the Cabinet rather than the Licensing Committee as it is the Cabinet that must approve the Statement for adoption by the Council.
- 2.3 Once adopted, the Statement is effective for three years but there is nothing to prevent the Council from reviewing the Statement during this period, should this become necessary.

3 Corporate Objectives and Priorities

- 3.1 The adoption of a Statement of Licensing Principles is a statutory requirement which does not directly relate to the Council's corporate aims.

4 Consultations/Communications

- 4.1 As mentioned in paragraph 1.1 above, the Council is legally required to consult upon the Statement and the draft document was sent to a number of different organisations including trade organisations, solicitors, Hampshire and Isle of Wight Constabulary and Hampshire and Isle of Wight Fire and Rescue Service. All have been given equal opportunity to comment.

5 Options and Options Appraisal

- 5.1 There are no substantive changes to the policy other than the addition of a Local Area Profile (to assist operators in developing their risk assessments) and any revisions are to correct dates and typographical errors and update references to the Gambling Commission's Guidance to Local Authorities. The Local Area Profile is attached as Annex 2 to this report. The options available to Cabinet are:

5.2 Option 1

To not adopt the proposed revised policy. The Council is legally required to consult upon and adopt a new Statement and therefore this option is not recommended. In not approving the revised Statement of Licensing Principles the Council will have failed to comply with its statutory requirements and may be subject to legal challenge when determining licence applications.

5.3 Option 2

To accept the proposed recommendations that would see the revised Statement, which has been subject to consultation, adopted. This is the recommended option.

5.4 Option 3

To resolve to take some other course of action such as amending the revised Statement. This is not recommended.

The only substantive alternative option other than to approval of the revised Statement of Licensing Principles available to the Council is to fail to approve and publish a Statement. In doing so the Council will have failed to comply with its statutory requirements and may be subject to legal challenge when determining licence applications.

6 Risk Management

- 6.1 An evaluation of the risks associated with the matters in this report indicate that further risk assessment is not needed because the changes/issues covered do not represent significant risks and have largely previously been considered by Councillors when the first Statement was adopted in 2006.

7 Resource Implications

- 7.1 There are no direct resource implications as a result of this report.

8 Legal Implications

- 8.1 The legal implications of failing to approve and adopt a Statement of Licensing Principles are as set out in section 5 of the report.

9 Equality Issues

- 9.1 An Equalities Impact Assessment is not needed because the issues covered have previously been addressed when the initial Statement was recommended for adoption in 2006. The Gambling Act 2005 and its associated secondary legislation have been assessed by central government as being compliant with United Kingdom equalities and human rights legislation.

10 Other Issues

- 10.1 Community Safety – none specific.
- 10.2 Environmental Health Issues – none.
- 10.3 Sustainability and Addressing a Changing Climate – none.
- 10.4 Property Issues – none.
- 10.5 Wards/Communities Affected – none specific but potentially the whole Borough.

11 Conclusion and reasons for recommendation

- 11.1 The Council is legally required to consult upon its Statement of Licensing Principles and it is only right that all those likely to be affected by the Act are given the opportunity to comment. The nil level of responses received would indicate that there is general satisfaction with the proposed Statement. Should, after its adoption, the Council consider it appropriate to review the Statement, then the ability to do so is available.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Gambling Act 2005 - Statement of Licensing Principles January 2022			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2	File Ref:	N/A
(Portfolio: Democracy and Governance) Councillor N Lodge			
Officer:	Michael White	Ext:	8013
Report to:	Cabinet	Date:	2 October 2024