

**Committee Name and Date of Committee Meeting**

Cabinet – 20 November 2023

**Report Title**

Gambling Act 2005 Statement of Licensing Policy

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

Section 349 of the Gambling Act 2005 requires a licensing authority to prepare and publish a statement of its licensing policy at least every three years.

The Council's current Gambling Act Statement of Licensing Policy was adopted in 2020 and requires a review after three years.

The review process, which included a period of public consultation that commenced in July 2023, has now concluded and the outcome of the review consultation has informed a finalised Statement of Licensing Policy. This report outlines the review process and presents an unamended but reviewed policy to Cabinet for consideration and approval.

**Recommendations**

1. That Cabinet recommend to Council that the proposed Gambling Act 2005 Statement of Licensing Policy 2023 (attached as Appendix 1) is adopted.

**List of Appendices Included**

Appendix 1 Gambling Act Statement of Licensing Policy 2023

Appendix 2 Summary of Consultation Responses

Appendix 3 Equalities Screening Assessment

Appendix 4 Equalities Analysis

Appendix 5 Carbon Impact Assessment

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

Yes

**Exempt from the Press and Public**

No

## **Gambling Act Statement of Licensing Policy**

### **1. Background**

- 1.1 The Gambling Act 2005 introduced a new licensing regime for gaming and betting administered through a combination of the Gambling Commission and local Licensing Authorities.
- 1.2 The Act regulates the following sectors:
  - Arcades
  - Betting
  - Bingo
  - Casinos
  - Gambling software
  - Gaming machines
  - Lotteries
  - Remote gambling
- 1.3 Within the legislation, Licensing authorities are responsible for:
  - Issuing gambling operators with premises licenses.
  - Issuing gambling operators with permits (which allow low stakes gambling in venues which are not primarily for gambling.)
  - Registering societies – allowing them to hold small lotteries.
  - Compliance and enforcement of the Gambling Act 2005 locally.
- 1.4 Licensing authorities are required to review and publish a statement of the principles which they propose to apply when exercising their licensing functions, every three years.
- 1.5 The Gambling Act 2005 Statement of Licensing Policy (the Statement of Licensing Policy) was last published in 2020 and is therefore due for review.
- 1.6 The Council has undertaken a consultation process outlined in Section 4 of this report, with a particular focus on the appropriateness of the current requirements. In total, there have been 34 responses to the consultation. Of these 34 responses, the overwhelming majority are in favour of maintaining the status quo with regard to the policy requirements. A full summary of the consultation responses is attached to this report as Appendix 2.
- 1.7 The current Policy has been reviewed by licensing officers and it has been determined that it complies with all relevant requirements and therefore requires no amendment. The final unamended version of the Policy is now brought before Cabinet for consideration for recommendation to Council for adoption.
- 1.8 The proposed Policy is attached to this report as Appendix 1.

## **2. Key Issues**

- 2.1 Although the current Policy was introduced in 2020, the content and aims of the Policy remain relevant and therefore there is no proposal to make any amendment to the current Policy prior to consultation taking place.
- 2.2 Feedback received during the consultation process was almost entirely in favour of not making any amendment to the current Policy.
- 2.3 As a result, the current Policy is being presented to Cabinet who are asked to make a recommendation that it is adopted by Council in December 2023.
- 2.4 The proposed Policy is attached to this report as Appendix 1.

## **3. Options considered and recommended proposal**

### **3.1 Option 1**

The Council could decide not to agree the revised Gambling Act 2005 Statement of Licensing Policy. This would be a breach of the relevant legislative provisions and could lead to the legal challenge of decisions made in relation to the Gambling Act 2005.

### **3.2 Option 2**

Cabinet could recommend Council agree the revised Gambling Act 2005 Statement of Licensing Policy.

- 3.3 The preferred option is Option 2, and the proposed Gambling Act Statement of Licensing Policy is attached at Appendix 1.

## **4. Consultation on proposal**

- 4.1 Consultation has taken place with members of the public, and those affected by the Policy. This consultation has taken the form of:
  - Direct contact with representatives of businesses / organisations that are directly affected by the Policy.
  - Responsible Authorities in relation to the Gambling Act 2005.
  - Statutory consultees as detailed in section 7.4.
  - Online consultation via the Council's website.
  - Direct mail contact with local residents (a mailshot to over 1000 randomised residential addresses within the Rotherham Borough).
  - Public drop in sessions throughout the Borough.
  - Consultation at Rotherham Show.
  - Contact with groups / organisations representing specific sectors of our communities.
  - Direct contact with individuals that have previously responded to a consultation regarding the development of this Policy (where their details are known).
  - Consultation with local ward Members.
  - Publicity via local newsletters and mailings.

- Press releases / social media publicity raising awareness of the policy review.

4.2 The outcome of the consultation is detailed in section 2 of this report and further detailed in appendix 2.

## **5. Timetable and Accountability for Implementing this Decision**

5.1 If Cabinet endorse the Gambling Act 2005 Statement of Licensing Policy, this must subsequently be adopted by Council.

5.2 If full Council adopt the policy in November 2023, this would be implemented on the 1 January 2024.

## **6. Financial and Procurement Advice and Implications**

6.1 The costs of undertaking its statutory duties as a licensing authority, of which this consultation process and the enforcement of this Policy forms part, are contained within the Council's approved Licensing revenue budget, the costs of which are met by fees.

6.2 Fee levels in respect of the Gambling Act 2005 are set by Statute, however, the Council has discretion over these fees up to a prescribed maximum. Fees are reviewed annually as part of the Council's budget setting process.

6.3 There are no procurement related implications introduced by this report.

## **7. Legal Advice and Implications**

7.1 Section 349 of the Gambling Act 2005 requires the Council in its role as Licensing Authority to prepare and publish a statement of the principles they propose to apply in exercising their functions under the Act. The statement of licensing policy must be reviewed and if necessary revised every three years with the Statement of Licensing Policy then being published.

7.2 The form of the statement of licensing policy or any revision is a matter for the Council however, this is subject to Regulations 4 to 6 of the Gambling Act 2005 (Licensing Authority Policy Statement) (England & Wales) Regulations 2006. The Regulations set out the requirements for the content and form of the statement of licensing policy and the procedure to be followed in preparing and then publishing it. In accordance with these Regulations a minimum of 4 weeks is required between publication and the statement of licensing policy coming into effect.

7.3 The publication of the statement of licensing policy must be advertised by publishing a notice in accordance with Regulation 7. The notice must specify the date on which the statement will be published, the date on which the statement will come into effect, the internet address where the statement will be published and the address of the library or other premises at which it will

be available for inspection. The notice must be published no later than the first day on which the statement is published.

7.4 In preparing a statement of licensing policy or a revision to the statement, the Council must undertake the statutory consultation as provided by section 349(3) of the Act and any Regulations made under it. This requires that the Council consult with:

- The Chief Officer of Police for the Authority's area.
- One or more persons who represent the interests of persons carrying on gambling businesses in the Authority's area, and
- One or more persons who represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act.

7.5 The Council has complied with these requirements with the consultation that has been undertaken. All consultation responses should be fully considered when forming the statement of licensing policy, this is in order to minimise the risk of legal challenge.

7.6 In accordance with the Act, the Council must publish a statement of licensing policy. Option 2 as the recommended option will ensure that the Council is complying with Statutory requirements, this will minimise the risk of legal challenge. A failure to adopt and publish a statement of licensing policy will leave the Council open to a significant risk of challenge, including potential judicial review. The Council must also ensure that all aspects of the legislative process, as outlined above, are followed.

7.7 In accordance with the Council's Constitution, the Council's Gambling Policy is formulated by Cabinet. Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council's Gambling Policy is required to be part of the Council's policy framework and adoption of that Policy falls to be made by full Council.

## **8. Human Resources Advice and Implications**

8.1 There are no HR implications arising from this report.

## **9. Implications for Children and Young People and Vulnerable Adults**

9.1 The protection of children and vulnerable adults is one of the Licensing objectives, and the policy makes reference to a number of measures that are introduced to protect children and vulnerable people from the harmful effects of gambling.

## **10. Equalities and Human Rights Advice and Implications**

10.1 There are no implications for equalities or human rights as the proposed amendment will be within existing legal frameworks.

10.2 An Equalities Screening Assessment is attached at Appendix 3, and full analysis is attached as Appendix 4.

## **11. Implications for CO2 Emissions and Climate Change**

11.1 This report does not introduce any implications for CO2 emissions or climate change. A Climate Impact Analysis is attached as Appendix 5.

## **12. Implications for Partners**

12.1 A range of partners and stakeholders were engaged through the consultation process. The Council recognise that a number of agencies work with the Council to regulate this sector, including South Yorkshire Police and the Gambling Commission.

12.2 There are however no implications envisaged from this report for partners or other Directorates.

## **13. Risks and Mitigation**

13.1 Failure to publish a Gambling Act Statement of Licensing Policy exposes the Council to legal challenge as a result of failing to comply with statutory requirements.

13.2 Failure to carry out the required consultation process would also expose the Council to legal challenge.

13.3 In addition, the absence of an up to date policy may lead to inappropriate decisions being made in relation to licence applications.

13.4 In order to mitigate this risk, it is proposed that the Statement of Licensing Policy be introduced as soon as possible (ensuring that all statutory processes are observed), particularly in relation to the consultation process.

## **14. Accountable Officers**

14.1 Alan Pogorzelec, Licensing Manager

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	06/11/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/11/23
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	01/11/23

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