

Meeting:	Council
Meeting date:	11 October 2019
Title of report:	Gambling Policy 2019-2022 (Review)
Report by:	Cabinet Member Housing, Regulatory Services and Community Safety

Classification

Open

Decision type

Budget & Policy Framework

Wards affected

(All Wards);

Purpose and summary

To review and approve the statement of principles (Gambling Policy) to be applied by the council when exercising its licensing functions under the Gambling Act 2005 (the Act). The current policy was approved in March 2015; that policy has been reviewed and refreshed to take account of new guidance issued by the Gambling Commission and further guidance regarding three or more gaming machines in pubs.

Recommendation(s)

That: the draft policy at appendix 1 be approved.

Alternative options

1. Not to approve the revised policy. This is not recommended as this would leave the Licensing Authority without any policy to guide its decision making process. It would also breach the legislation, as there is a requirement under the Gambling Act that the Licensing Authority has an up to date policy.
2. To make further changes to the policy. This is not recommended as the draft policy has been subject to consultation and no further areas for improvement or change identified.

Key Considerations

3. Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. The current statement was approved in March 2015.
4. The previous policy appears to have been effective although as a Licensing Authority we receive very few applications concerning actual gambling premises. Most of the applications under the Act are for gaming machines and small lotteries.
5. The purpose of the policy is to ensure that the three licensing objectives are promoted within Herefordshire and this appears to have been effective in the past. The council has never received any complaints in relation to gambling. Within Herefordshire there are a total of:

Thirteen (13) Betting Shops
Five (5) Adult Gaming Centres and
Four (4) Bingo Premises
6. Whilst the policy remains largely unchanged, amendments have been made to reflect the requirements of two new codes issued by the Gambling Commission: Licensing Conditions and Code of Practice (LCCP) and the Social Responsibility Code. The policy now reflects the requirement for these codes to be followed.
7. Also, further guidance has been added in respect of applications for three or more gaming machines in licensed premises.
8. Over the life of the policy, the effectiveness of the policy will be monitored to ensure that the licensing objectives are being promoted. This will be achieved by monitoring whether any issues are identified which affects these licensing objectives.
9. The new policy will be published on the website and has already been consulted on, so people are already aware of the proposed changes.
10. The matter was considered by General Scrutiny Committee on 23rd July 2019 which made 11 recommendations itemised as (a) to (k), which have all been considered and where at all possible included as amendments within the policy.
11. The policy was considered by Cabinet on 26th September 2019 and was endorsed for recommendation to Council.

Community impact

12. The licensing objectives under the Act are:
 - a. Preventing gambling from being a source of crime or disorder; being associated with crime or disorder; or being used to support crime;
 - b. Ensuring that gambling is conducted in a fair and open way;
 - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

13. The policy will ensure that businesses are aware of the expectations of the Licensing Authority in respect of gambling premises. This will result in the promotion of the licensing objectives, as well as having a positive impact on the priorities with the council's corporate plan which are:
- enable residents to live safe, healthy independent lives
 - keep children and young people safe and give them a great start in life
 - support the growth of our economy
 - secure better services, quality of life and value for money
14. Also the policy will help promote the life chances of looked after children or care leavers, by protecting them from being harmed or exploited by gambling, whilst at the same time ensuring the health, safety and wellbeing of employees, contractors or others who may be affected by the decision.
15. By exercising the functions correctly in respect of the Act, an appropriate balance can be struck between the requirement to protect children and the vulnerable from being harmed and exploited, whilst supporting the needs of legitimate business and the local economy.

Equality duty

16. The effects of this policy have been considered in relation to both the Equality Act 2010 and the Human Rights Act 1998. It will have little impact as:
- a) The policy remains in essence the same as the previous one, with only minor amendments which are updating the policy, mainly as a result of guidance issued by the Gambling Commission and
 - b) One of the Licensing Objectives under The Gambling Act is the protection of children and other vulnerable persons from being harmed or exploited by gambling and the policy reflects this objective.
17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Resource implications

18. This report has no resource implications.

Legal implications

19. Section 349 of the Act requires all licensing authorities to prepare and publish a statement of licensing principles every three years. In exercising their functions under s153 (1) of the Act a Licensing Authority must have regard to the legislative requirements of the Act and

the statement published by the Licensing Authority under section 349 of the Act. Failure to have an up to date Gambling Licensing Policy would mean that the Licensing Authority was in breach of legislation and was open to challenge in relation to the exercise of its functions under the Act.

Risk management

20. None associated with the recommendation. Failure to reach a decision could result in an application for Judicial Review being made, as the regulation of gambling establishments would have to be in the absence of an up to date policy.
21. Should no policy be adopted then there would cease to be any up to date guidance to applicants as well as to decision makers which would make it difficult to defend any decision that is challenged.

Consultees

22. In accordance with the Gambling Act 2005 the following have been consulted:
 - West Mercia Police
 - All holders of premises licences under the Gambling Act 2005 in Herefordshire
 - The Gambling Commission
 - Public Health
23. No feedback has been received from any of the above listed.
24. The draft policy was considered by General Scrutiny Committee at its meeting on 23rd July 2019 and the following recommendation were made which result in the response shown in italics:
 - a) Officers review the wording in Para 1.1 of the policy to ensure it places clear emphasis on promoting compliance with the principles set out in the Act, and make clear that it is not about promoting gambling; *(Done)*
 - b) Officers include a glossary of terms to cover all technical and legal terms set out in the report before it goes on to cabinet and full Council; *(Done)*
 - c) a sentence be added to the policy document to highlight where people can be directed to apply for a license; *(Done)*
 - d) a new category (i) be added to the itemised list in para 15.6 to include training in child protection and child safeguarding; *(We don't recommend it's mandatory because it's not proportionate to the evidence locally but we can make licensee's aware of the risks to CYP and the training opportunities that are available.)*
 - e) officers look at all of the suggested various changes to wording of the policy suggested in bullet point 7 above and update the policy to ensure there is clarity in the phraseology used *(The phraseology used within the Policy reflects the terms used within the Act and the use of different terminology within the policy may cause confusion).*
 - f) the various references to children and young persons should – for consistency – be changed to children and young people throughout the policy document *(the term children and young persons is the term used within the Act and again may cause confusion if different terms are used within the policy) .*

- g) officers revise the wording to highlight that the gambling policy is 'reviewed' every three years and to add clarity to the reference of policy review from 'time to time' – with the additional context that this will happen when/if there are changes to legislation during the three year period; *(Done)*
- h) officers remove the reference to 'the governance team' in para 4.5 of the policy; *(Done)*
- i) officers state clearly what the deadline timeframes are in para 5.2. *(Done)*
- j) grounds for a review of a premises license as set out at section 18 of the policy should also include any breaches to the principles that the licensing authority, upholds in overseeing and this policy and any related enforcement action; *(Done)* and
- k) details on rights of appeal should be included in the policy document *(Done)*.

25. The matter was considered by Cabinet on 26th September 2019 and recommended to Council for approval.

Appendices

Appendix 1 – Statement of Gambling Licensing Policy 2019 – 2022

Background papers

None