

Title of report: Gambling Act 2005 - Statement of Gambling Licensing Policy 2024 – 2027

Decision maker: Cabinet member roads and regulatory services

Decision date: 5 July 2024

Report by: Corporate Director – Economy & Environment

Classification

Open

Decision type

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

All wards

Purpose

To seek Cabinet Member approval for the Gambling Policy for onward consideration and approval by full Council.

Recommendation(s)

That:

- a) **The policy as presented should be recommend to full council for approval (appendix 1)**

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.
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. 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.
8. The new policy will be published on the council website and has already been consulted on, so people are already aware of the proposed changes.
9. The matter was discussed at the PGC Meeting on 17th June 2024.

Community impact

9. 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.

10. 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 within the Council's Plan 2024-2028 which are:
- **People** - We will enable residents to realise their potential, to be healthy and benefit from communities that help people to feel safe and supported
 - **Place** - We will protect and enhance our environment and ensure that Herefordshire remains a great place to live. We will support the right housing in the right place and do everything we can to improve the health of our rivers
 - **Growth** - We will create the conditions to deliver sustainable growth across the county. We want to attract inward investment, create more jobs, enable housing development and provide the right infrastructure to keep Herefordshire moving forward
 - **Transformation** - We will be an efficient council that embraces best practice, delivers innovation through technology and demonstrates value for money
11. 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.
12. 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.

Environmental Impact

13. Whilst this is a decision on back-office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

Equality duty

14. 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.

15. 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

16. This report has no resource implications.

Legal implications

17. 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.
18. Licensing authority policy statements under s349 of the Gambling Act 2005 are defined as budget and policy framework items which can be agreed at a Council meeting only. Cabinet recommend to full Council the adoption of budget and policy framework items. The Statement of Gambling Licensing Policy relates to the portfolio of the Cabinet Member Roads and Regulatory Services therefore this cabinet member decision provides the recommendation of Cabinet to the full Council meeting on 26 July 2024 for the adoption of the policy.

Risk management

19. 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.
20. 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

21. In accordance with the Gambling Act 2005 the following have been consulted:
- i. West Mercia Police
 - ii. All holders of premises licences under the Gambling Act 2005 in Herefordshire
 - iii. All holders of alcohol licences under the Licensing Act 2003
 - iv. All holders of small lotteries

- v. The Gambling Commission
- vi. Public Health
- vii. Herefordshire Safeguarding Board
- viii. Planning Department
- ix. Parish and town Councils

There were over 400 emails sent as part of the consultation process.

23. Feedback has been received from a licensed premises and a Town Council (appendix 2).

Appendices

Appendix 1 - Gambling Act 2005 - Statement of Gambling Licensing Policy 2024 – 2027

Appendix 2 - Summary of feedback

Appendix 3 - Summary of changes

Background papers

'None identified'.

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 07/06/2024
Finance	Karen Morris	Date 06/06/2024
Legal	Ben Davies	Date 12/06/2024
Communications	Luenne Featherstone	Date 03/06/2024
Equality Duty	Harriet Yellin	Date 06/06/2024
Procurement	Carrie Deeley	Date 07/06/2024
Risk	Lindsey Lord	Date 07/06/2024

Approved by	Click or tap here to enter text.	Date	Click or tap to enter a date.
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[Note: Please remember to overtype or delete the guidance highlighted in grey]

Please include a glossary of terms, abbreviations and acronyms used in this report.