



**Licensing Committee**

**18 September 2018**

**Subject: Review of Gambling Policy (Statement of Principles)**

Report by:

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Purpose / Summary:

This report is in relation to the process taken and includes the comments made through the consultation process in the mandatory review of the Gambling Policy (Statement of Principles)

**RECOMMENDATION(S):**

**1) That Members approve the amended draft policy and recommend to Council for formal adoption as The Gambling Policy (Statement of Principles) at the Council meeting of 12 November 2018;**

## IMPLICATIONS

**Legal:**

Please see section 6

**Financial: Fin Ref: FIN/98/19**

There were costs associated with the consultation process, which were relatively low and met from within existing budget provision.

**Staffing:**

None as a result of this report

**Equality and Diversity including Human Rights:**

No adverse impact has been identified as a result of the wide scale consultation process.

**Risks:**

Please see section 7

**Climate Related Risks and Opportunities:**

N/A

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**Background Papers:**

The following background papers were used in the preparation of this report.

Title:	Location of Background Papers:
Gambling Act 2005	Web
Gambling Commission Guidance to Licensing Authorities 5 <sup>th</sup> Edition	Licensing Office

**Call in and Urgency:**

**Is the decision one to which Rule 14 of the Scrutiny Procedure Rules apply?**

Yes  No

**Key Decision:**

Yes  No

**1 Introduction**

- 1.1 Section 349(1) of the Gambling Act 2005 requires that each Licensing Authority shall before each successive period of 3 years, prepare and publish a “statement of principles” that they propose to apply in exercising their functions under this act during that period. The current policy was adopted by Council in November 2015; therefore the required review process must be completed by the end of 2018.
- 1.2 Section 349(2) states that a Licensing Authority shall review their statement from time to time and if necessary revise the statement and publish before giving it effect.

**2. Background**

- 2.1 The Gambling Act 2005 places the responsibility for the licensing of gambling premises and the issuing of gambling permits with Local Authorities, along with the responsibility of inspection and compliance checks also.

2.2 Amongst other matters the 2005 Act deals with the licensing of:

- Casinos
- Betting shops
- Bingo halls
- Amusement arcades
- Gaming machines
- Society lotteries
- Racecourses

### **3. Details of the report**

3.1 Section 2(1)(a)(i) of the Gambling Act 2005 defines a district council as a "Licensing Authority".

3.2 Before determining the policy the Licensing Authority must consult with:

- The Chief Officer of Police for the licensing authority's area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

District and Borough Councils within Lincolnshire (as with many others nationally) are in the process of reviewing their Gambling Policy and these, where relevant, may or may not be similar to some degree in content. Where there are some similarities, this can be advantageous to the gambling industry in that this may offer some consistency.

Core to the Gambling Act are the licensing objectives. These are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open manner;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

It is important to note that there are no other licensing objectives.

### **4. Consultation**

4.1 The list of persons consulted when reviewing the gambling policy was deliberately wide. This enables the licensing authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the policy.

4.2 The following consultation process was implemented:

- The draft revised gambling policy was placed on the West Lindsey website where it could be viewed and consultee's given the opportunity to make any comments;
- Letter was emailed to West Lindsey (WLDC) Members with a link to the draft policy for them to comment upon;
- A copy of the draft policy was deposited in the WLDC Guildhall reception area at the Guildhall where it was available to comment upon, if requested;
- Copies of the draft policy were deposited at 4 local libraries around the district;
- Letters were emailed to the relevant responsible authorities with a link to the draft policy for them to comment upon;
- Revised draft policy and amendments letter emailed to Licensing Teams at other local authorities across Lincolnshire;
- Letter inviting many other consultee's to take part in the consultation process ranging from Gamblers Anonymous, Citizens Advice Bureau, The Gambling Commission, William Hill, Ladbrokes plc and The Racecourse Association;
- Approximately 70 consultees were invited to take part in the review process overall, the full list is attached at Appendix C.

## **5. Responses to consultation process**

5.1 The consultation exercise concluded with three responses received in relation to the draft policy.

5.2 The comments received from the respondents can be seen within Appendix A at 1a, 1b, and 1c.

5.3 Although there are only three responses received, all concerns highlighted need to be given due consideration and addressed accordingly in order to reduce and/or avoid any legal challenge.

5.4 Gambling legislation, administration and compliance and enforcement, whilst being highly regulated by both licensing authorities and the Gambling Commission, is also very complex in nature. It is worth noting that whilst licensing authorities issue the relevant premises licenses, permits, lotteries and other authorisations, over and above that, the Gambling Commission also issue personal and operator licenses whereby they incorporate stringent checks in relation to their own processes.

## **6. Legal**

6.1 It is a mandatory requirement that the Licensing Authority must prepare, consult, determine and publish its Statement of Principles every 3 years or earlier if necessary. Adoption of the Statement of Principles is a Council function which cannot be delegated to a Committee or Sub-Committee.

- 6.2 Additionally, the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve?

## **7. Risks**

- 7.1 Failure to adopt and publish the Statement of Principles means that the authority would not be complying with the Gambling Act 2005 and would leave any decisions made by the Licensing Authority open to challenge along with the potential to damage Council reputation.
- 7.2 Additionally, it should also be recognised that in adopting a revised draft policy, in making this decision, this can also be challenged as with any decision made by the Council. However, in order to minimise the risks of any legal challenge, the Licensing Manager discussed the concerns highlighted with the respondents (where possible) and has given their comments due consideration within Appendix A, which is attached for Members perusal. The consultation process raised numerous concerns through this exercise, which has given the authority the opportunity to amend the original draft policy accordingly, which is now being put before Members for their approval.

## **8. Conclusion**

- 8.1 The licensing and compliance role of the Licensing Authority is important in improving the health, safety, security and welfare of the district's residents, visitors and business community.
- 8.2 The suggested amendments to the Policy have been made based on the following grounds:
- Officer experience in dealing with the 2005 Act.
  - Gambling Commission guidance to Licensing Authorities.
  - Current good practice shared with other Licensing Authorities
- 8.3 Every effort has been made to comply with the statutory process. The revised draft policy is attached at Appendix B for Committee's approval, before being recommended to Council for formal adoption on 12 November 2018.
- 8.4 Following formal adoption by Council the policy will remain in force for three years (although it can be reviewed earlier if required) after which it must be reviewed and formally adopted for a further three year period and so on.

## **9. Appendices**

9.1 Appendix A Schedule of responses and the appraisal given

9.2 Appendix B Revised draft policy

9.3 Appendix C List of Consultees