

## PLANNING AND LICENSING COMMITTEE

23 November 2021

### GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

#### Report of the Strategic Director of Places

Strategic Aim:	Vibrant Communities	
Exempt Information	No	
Cabinet Member(s) Responsible:	Councillor L Stephenson, Deputy Leader and Portfolio Holder for Communities, Environment and Climate Change	
Contact Officer(s):	Jacqui Harvey, Head of Operations Environmental Health and Licensing	Tel: 01733 453502 Jacqui.harvey@peterborough.gov.uk
	Gareth Brighton – Licensing and Business Manager	Tel: 01733 864103 Gareth.brighton@peterborough.gov.uk
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Ward Councillors	All Wards	

#### DECISION RECOMMENDATIONS

That the Committee:

1. Approve the proposed revised draft Gambling Act 2005 Statement of Principles, as attached at **Appendix D**; and
2. Recommends to Council at the meeting on 13 December 2021, the formal adoption of the proposed Gambling Act 2005 Statement of Principles for Rutland County Council

#### 1 PURPOSE OF THE REPORT

- 1.1 To make members aware of the responses received during the consultation process.
- 1.2 To seek approval of the draft Statement of Principles and to seek recommendation to Council for adoption at the meeting on 13 December 2021.

#### 2 BACKGROUND

- 2.1 Under Section 349 of the Gambling Act 2005, it is a requirement for each Council to produce, adopt and publish a Statement of Principles. This Statement will govern the way decisions are made by the Council and how it will administer its duties under the Act. Without a Statement of Principles the Council may be subject to Judicial Review, for failing in its responsibilities to carry out a statutory duty.
- 2.2 The Act requires that the Statement of Principles is kept under continual review, to incorporate where necessary, any changes to the legislation and or Guidance as appropriate. In addition, the Act specifies that the Statement must be reviewed and subject to consultation every three years.
- 2.3 The current three year period began on 31 January 2019 and therefore is due to expire on 30 January 2022. The revised Statement must be reviewed and consulted upon prior to it being adopted.
- 2.4 In order to meet our statutory obligations, a revised Statement was drafted and subject to consultation.
- 2.5 In formulating the draft revised Statement, officers have given full consideration to the requirements of the Act and guidance issued by the Gambling Commission. This draft is based on the nationally accepted template and contains the minimum of amendments and there are no changes to the intent or direction of the policy.

### **3 CONSULTATION**

- 3.1 The following outlines the procedure taken, in providing the opportunity for members, statutory consultees and members of the public to be involved in the process of reviewing our Statement of Principles.
- 3.2 Before determining its Statement for any three year period, (as required under S.349 of the Act) the licensing authority must consult with the persons listed in s.349(3) as follows:
  - a. Chief Officer of Police for the area;
  - b. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the area;
  - c. 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 the Act.
- 3.3 For information purposes, a list of consultees is attached at **Appendix A**
- 3.4 A consultation took place between 27 August 2021 and 15 October 2021. The consultation letter gave advice on the following:
  - ii) Options on where to access and obtain copies of the draft revised Statement
  - iii) How to make representations on the draft Statement
  - iv) Deadline for making representations, that any comments must be received by 15 October 2021.
- 3.5 The consultation document showing track changes is attached at **Appendix B** (Track changes; additions of text are shown in red and deletions of text are shown with strikethrough)

- 3.6 Two Responses (and one enquiry) were received to the consultation.
- 3.7 The response from the National Association of Bookmakers identified some outdated text within paragraph 18.7 of the draft policy. The outdated text referring to the 'five times betting rule' has been removed and the paragraph is now consistent with current guidance.
- 3.8 The second response was from HMRC, stating that the postal address had changed, Appendix 3 (Responsible Authority contact details), has been updated accordingly.
- 3.9 The revised Statement of Principles including changes made in consideration of consultation responses, is attached at **Appendix D**

#### **4 ALTERNATIVE OPTIONS**

- 4.1 The alternative option is to do nothing. This presents a risk to the council as failure to adopt a policy could result in a Judicial Review being sought.

#### **5 FINANCIAL IMPLICATIONS**

- 5.1 Any costs in relation to the production of the Statement of Principles will be met by income from gambling licensing fees.

#### **6 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 6.1 The Statement of Principles should be read in conjunction with the Statutory Guidance issued under Section 25 of the Gambling Act 2005 ('the Act').
- 6.2 The Council must have regard to the Statement of Principles when carrying out its duties under the Act.
- 6.3 Section 349 of the Act requires the Licensing Authority to publish a Statement of Principles every three years, and to consult with the statutory consultees and any other persons who may have an interest.
- 6.4 Legal Services will rely upon the contents of the policy in the event of any appeals to the Magistrates Court against decisions of the council and in any prosecutions.
- 6.5 As per paragraph 4.2 of the Statement of Principles *'It should be noted that this statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.'*

#### **7 DATA PROTECTION IMPLICATIONS**

- 7.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no DPA implications in producing and publishing the Policy.

#### **8 EQUALITY IMPACT ASSESSMENT**

- 8.1 An Equality Impact Assessment (EqIA) has not been completed as the policy does not seek to discriminate against any particular group.

## **9 COMMUNITY SAFETY IMPLICATIONS**

- 9.1 None identified. Rutland County Council currently has one premises licensed under the Gambling Act 2005 and issue various permits and registrations.
- 9.2 The Gambling Act 2005 sets out the functions to be exercised by licensing authorities, which includes a consultation process with Responsible Authorities and interested parties on new premises applications. The Statement details the Principles it will apply, when exercising those functions, which is consistent with statutory guidance.

## **10 HEALTH AND WELLBEING IMPLICATIONS**

- 10.1 Please refer to 9.1 and 9.2 above.

## **11 ORGANISATIONAL IMPLICATIONS**

- 11.1 No Environmental, Human Resource or procurement implications have been identified.

## **12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 12.1 To comply with the statutory requirements of the Gambling Act 2005 and to ensure that the Statement of Principles is up to date and remains fit for purpose, the revised Statement of Principles (as attached at **Appendix D**) should be recommended for adoption by Council.

## **13 BACKGROUND PAPERS**

- 13.1 The Gambling Act 2005
- 13.2 Guidance issued to Licensing Authorities under s.25 of the Act issued by the Gambling Commission (published April 2021)  
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

## **14 APPENDICES**

- 14.1 Appendix A – List of Consultees
- 14.2 Appendix B – Consultation document
- 14.3 Appendix C – Consultation responses
- 14.4 Appendix D – Proposed Statement of Principles for adoption

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.