

## **Environment and Communities Committee**

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| <b>Date of Meeting:</b>     | 10 November 2022                           |
| <b>Report Title:</b>        | Revised Statement of Gambling Principles   |
| <b>Report of:</b>           | Jayne Traverse, Executive Director - Place |
| <b>Report Reference No:</b> | EC/19/22-23                                |
| <b>Ward(s) Affected:</b>    | All  |

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### **1. Purpose of Report**

- 1.1. This report seeks recommendation to Council to adopt the revised Statement of Gambling Principles.

### **2. Executive Summary**

- 2.1 The Gambling Act 2005 requires local authorities to prepare and publish a statement of the principles that they propose to apply when exercising their functions under the Act during the three-year period to which the statement applies.
- 2.2 The Council is required to review its existing statement of principles and publish a revised version. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders identified within the Gambling Act 2005.

### **3. Recommendations**

- 3.1. That the Committee
- 3.1.1. Notes the draft revised Statement of Gambling Policy as set out at Appendix 1 to the report
- 3.1.2. Recommends the draft revised Statement of Gambling Policy to Council for adoption.

#### **4. Reasons for Recommendations**

- 4.1. The Statement of Gambling Principles is the policy document used by the Licensing Authority when making decisions under the Gambling Act 2005. It forms part of the Council's Budgetary and Policy Framework.
- 4.2. The Council is required to adopt a Statement of Gambling Principles in accordance with section 349 of the Gambling Act 2005. By virtue of the legislation, final adoption of the Statement is reserved to full Council.

#### **5. Other Options Considered**

- 5.1. No other options have been considered. The Council is required by section 349 of the Gambling Act 2005 to adopt a Statement of Gambling Principles. The route for adopting this document is set out both in legislation and by the requirements in the Council's Constitution.

#### **6. Background**

- 6.1. The Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act.
- 6.2. The draft statement, a copy of which is attached as Appendix 1, incorporates some amendments (set out in Appendix 2), but in essence remains substantially the same as previous iterations.
- 6.3. The Licensing Team have not received any comments, either positive or negative, on the current statement. Similarly, the Council has not been subject to judicial challenge on the content of the statement.
- 6.4. The Statement of Gambling Principles is the policy document that the Licensing Act Sub-Committee will use when determining contested applications under the Gambling Act 2005. Consequently, it needs to adequately guide applicants, objectors, Licensing Authority Officers, and Committee Members.
- 6.5. It will need to be acknowledged that the Council, acting as the Licensing Authority, does not administer and control all aspects of gambling. There are certain types of licences, such as operator and personal licences, that come under the remit of the Gambling Commission. In turn the Gambling Commission will issue Codes of Practice to those who provide gambling and their National Strategy to Reduce Gambling Harms. These codes of practice and guidance documents place requirements on operators that go over and above the requirements the Council can stipulate.
- 6.6. The statement must reflect that the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives:
  - 6.6.1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 6.6.2. Ensuring that gambling is conducted in a fair and open way
- 6.6.3. Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 6.7. Within the last three years, the period the Council's current Statement of Principles has been in operation, there has been a significant decrease in the number of premises requiring a gaming permit or a premises licence. This is shown within the area profile section of the statement.
- 6.8. When undertaking the review officers have undertaken a light touch approach. This is because the gambling landscape, which needs to be addressed in the statement, has changed little in the last three years. Most gambling developments have taken place in areas such as online gambling and the control of offshore gambling providers. These aspects of gambling are outside the scope of local authority powers and therefore not appropriate for inclusion in our Statement of Gambling Principles.
- 6.9. The changes made to the statement are tabulated at Appendix 2.
- 6.10. There have been no contested applications and it has not been necessary for the Sub-Committee to use the statement in any decision-making process.
- 6.11. In reviewing the statement of principles officers have considered (amongst other things):
  - 6.11.1. The promotion of the three licensing objectives
  - 6.11.2. The guidance issued under Section 25 of the Gambling Act 2005 and any updated guidance provided by the Gambling Commission
  - 6.11.3. The Council's current Statement of Gambling Principles
  - 6.11.4. Equality legislation and requirements
- 6.12. The draft statement of principles was considered by the Director of Environment and Neighbourhood Services, and it was approved that consultation should take place with relevant stakeholders. Further details of consultation are set out within paragraph 7 of this report.
- 6.13. The revised statement was also considered by the Licensing Committee on the 5<sup>th</sup> September 2022. The Committee resolved that the draft statement should be recommended to the Environment and Communities Committee for consideration prior to being considered for adoption by full Council.

## **7. Consultation and Engagement**

- 7.1. The consultation process followed was that laid down by The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

- 7.2.** Given the minor and inconsequential changes to the statement, a decision was taken to run a shorter consultation period reflective of these limited changes.
- 7.3.** The consultation ran between 14<sup>th</sup> July 2022 and 11<sup>th</sup> August 2022. And during that time the consultation was advertised on our website [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)
- 7.4.** No responses to the consultation were received during the consultation process. This may be a sign that gambling continues to move away from premises based gambling towards online gambling and local authority policies therefore become less important when compared to the guidance and codes of practice issued by the Gambling Commission.
- 7.5.** Various stakeholders, including those representatives set out in the regulations, and all licence holders were contacted and informed of the consultation.

## **8. Implications**

### **8.1. Legal**

- 8.1.1.** The legal implications of the Recommendations in this Report are not by themselves significant. The Environment and Communities Committee does not have the power to adopt the revised Policy. This can only be done by Council in accordance with the Constitution and in compliance with the legislation.
- 8.1.2.** If the Environment and Communities Committee does not recommend the draft revised Statement of Gambling Policy to Council for adoption it must give reasons for doing so.
- 8.1.3.** It is recommended that the Committee consider the following before approving the Recommendation of this Report.
- 8.1.4.** Whether the revised statement includes:
- 8.1.4.1.** an introductory section summarising the matters dealt with in the statement and a description of the geographical area in respect of which the authority exercises functions under the 2005 Act.
  - 8.1.4.2.** a list of the persons whom the authority has consulted in preparing the revised statement.
  - 8.1.4.3.** the principles to be applied by the authority in exercising the powers under section 157(h) of the 2005 Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm;
  - 8.1.4.4.** the principles to be applied by the authority in exercising the powers under section 158 of the 2005 Act to determine whether a person is

an interested party in relation to a premises licence, or an application for or in respect of a premises licence;

- 8.1.4.5. the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the 2005 Act with respect to the exchange of information between it and the Gambling Commission,
- 8.1.4.6. the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act;
- 8.1.4.7. the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises;
- 8.1.4.8. the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

## **8.2. Finance**

- 8.2.1. Administrative costs associated with the update and consultation activity for the revised Statement have been met from existing Licensing budgets.
- 8.2.2. Implementation of the revised Statement will incur staff costs that are already covered by base budgets within the Licensing service.

## **8.3. Policy**

- 8.3.1. The Council is required to revise and adopt a Statement of Gambling Principles every three years.

## **8.4. Equality**

- 8.4.1. Consideration has been given to the application of the 'public sector equality duty' (in accordance with section 149 Equality Act 2010) to the recommendation. The decision requested is likely to have a neutral effect in terms of its impact on those individuals with 'protected characteristics.'
- 8.4.2. As part of the research undertaken when writing the Local Area Profile within the Statement of Policy, it has been identified that white, working-class males in the lower age ranges are most at risk from problem gambling. That profile includes characteristics which are protected under the Equality Act 2012.
- 8.4.3. As part of the Gambling Commission's Operating Licence conditions and the Licence conditions and codes of practice, all gambling operators must have a policy setting out how they will ensure that gambling is conducted appropriately and in accordance with the Licensing Objectives. This is usually called a social responsibility policy and would include provisions setting out how an operator would protect those with protected characteristics from the harms caused by problem gambling.

## **8.5. Human Resources**

**8.5.1.** There are no human resource implications.

## **8.6. Risk Management**

**8.6.1.** It should be noted that the Gambling Act 2005 requires the Licensing Authority to have a Statement of Gambling Principles. However, there is no penalty that could be applied if the Licensing Authority did not adopt a Statement. Notwithstanding, any decisions taken where a policy was not in place could be subject to Judicial Review.

## **8.7. Rural Communities**

**8.7.1.** There are no direct implications for rural communities

## **8.8. Children and Young People/Cared for Children**

**8.8.1.** All licensed premises are required to have robust policies and processes in place to ensure that children do not take part in gambling activities. This is supported by some of the larger operators undertaking their own in-house test purchasing regime.

**8.8.2.** The harms that children are most likely to experience from gambling are where there are problem gamblers within the household.

**8.8.3.** As indicated elsewhere within the report, the majority of gambling takes place in ways that are outside the remit of the Licensing Authority and it would be very difficult for us to identify households where gambling is a problem through licensing powers.

## **8.9. Public Health**

**8.9.1.** Gambling as an activity can have significant and devastating effect on problem gamblers and their families and friends. As identified in the Area Profile the number of premises licensed for gambling in Cheshire East is comparatively low. Additionally, we have recently seen a number of betting shops surrender their licences. Statistically, there could be either 3,354 or 1,864 problem gamblers in the Borough (depending on which measure is used). It can therefore be seen that despite the relatively low number of licensed premises there could still be significant harm being caused to residents. What we are not able to identify is by which method problem gamblers are gambling in Cheshire East (e.g. betting shops, scratch cards, or online gambling etc).

**8.9.2.** The Council cannot regulate online gambling within Cheshire East. The regulation of these activities is within the remit of the Gambling Commission. The Commission, in their participation in gambling annual report, has recently reported that online gambling activity has increased.

## **8.10. Climate Change**

**8.10.1.** There are no direct implications for climate change.

**Access to Information**

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| Appendices:        | Appendix 1 Revised SOGP 2022 v1<br>Appendix 2 Logged Changes to the SOGP   |
| Background Papers: | <a href="#">statement-of-gambling-principles-2019-2022.pdf</a><br>( <a href="http://cheshireeast.gov.uk">cheshireeast.gov.uk</a> ) |