

EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Review of Gambling Act 2005
Meeting of:	Full Council
Date:	7 December 2015]
Is this an Executive Decision:	NO
Is this a Key Decision:	NO
Is the report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	[]

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: Angela Wakefield

Date Signature

Chief Finance Officer: Sal Khan

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Council

Date: 7 November 2015

TITLE:	Gambling Act 2005 – Policy Statement Review	
PORTFOLIO:	Enforcement Services	
HEAD OF SERVICE:	Paul Costiff	
CONTACT OFFICER:	Margaret Woolley	ext. No. 1479
WARD(S) AFFECTED:	All	

1. Purpose of the Report

- 1.1 To report on the outcomes of the consultation exercise undertaken on the draft Gambling Policy Statement in relation to the Gambling Act 2005.
- 1.2 The Licensing Sub-Committee recommend to Full Council that the final Policy Statement is suitable for adoption.

2. Executive Summary

- 2.1 In accordance with the requirements of the Gambling Act 2005 the Licensing Authority is required to publish a statement of policy every successive three year period from the first appointed day, namely 31 January 2007. The policy is now due to be revised to cover the next successive three year period January 2016 to January 2019.

3. Background

- 3.1 Section 349 of the Gambling Act 2005 (“the Act”) requires all Licensing Authorities to prepare and publish a Statement of Principles in the form of the Gambling Licensing Policy (“the Policy”) that it proposes to apply in exercising its functions under the Act during the three year period to which the Policy applies.

3.2 The Councils Policy has been revised on two occasions since then and it is now time to revise this Policy to cover the next three year period 31 January 2016 to 31 January 2019.

4. Contribution to Corporate Priorities

4.1 The issues raised in the report impact on the following Councils objective - Protecting and strengthening communities – Love Where You Live – having a clear Gambling Act Policy in place will protect those that are vulnerable and ensure businesses are aware of what is expected by the authority.

5. **Report**

5.1 Regulatory Services includes the Licensing function.

5.2 The Gambling Act 2005 was fully implemented on 01 September 2007. The Act introduced new responsibilities for Licensing Authorities, to undertake a number of licensing functions in relation to gambling premises.

Section 349 of the Gambling Act 2005 requires the Council (the Licensing Authority) to prepare and publish a Gambling Act Policy Statement that it proposes to apply in exercising its licensing functions. The statement will last for a maximum of three years, but can be reviewed and revised by the Authority at any time. The Authorities current statement was published in January 2013.

5.3 The Act provides for three categories of licence:

- Operating licences
- Personal licences; and
- Premises licences.

The Gambling Commission issues Operating licences and Personal licences and Licensing Authorities issue Premises licences.

The Gambling Act 2005 places a responsibility for the licensing of gambling premises and the issuing of permits with Local Authorities, with the associated responsibility of ensuring that the conditions on these licences are upheld. Amongst other matters the 2005 Act deals with the licensing of:

- Casinos
- Betting shops
- Bingo halls
- Amusements arcades and gaming centres
- Gaming machines
- Small Society lotteries
- Alcohol licensed premises (making gaming machines available for use)
- Private clubs (making gaming machines available for use)

5.4 Central to the Gambling Act are the licensing objectives. These are:

- Preventing gambling from being a source of crime and 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 person from being harmed or exploited by gambling.

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

5.5 Section 349 (3) of the Act requires the Licensing Authority to consult the following on its licensing policy statement or any subsequent revision:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authorities area; and
- 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 Authorities functions under the Act.

5.6 The list of persons to be consulted when preparing the Licensing Policy Statement is deliberately wide. This enables Licensing Authorities to undertake a comprehensive exercise with anyone who may be affected by or otherwise have interest in the Licensing Policy Statement.

5.7 Section 154 of the 2005 Act indicates that adoption of the Policy Statement (Gambling Policy) cannot be delegated to the Licensing Committee. Therefore, Full Council must adopt the final document.

5.8 The draft of the proposed revised policy is attached as Appendix 1. The policy has been amended in accordance with the guidance issued by the Gambling Commission. The amendments are highlighted in red.

5.9 Appendix 2 details the significant changes within the policy one of these being the requirement for Licensing Authorities to produce a Local Risk Assessment and Local Area Profile.

5.10 The current policy was published on 31 January 2013 and therefore a reviewed policy will need to be published by 31 January 2016.

5.11 The formal consultation of the Policy concluded on 15 October 2015. The Licensing Team received a total of four responses which are attached as appendices. Appendix 3

5.12 The Policy and consultation responses were presented to the Licensing Sub-Committee on 3 November 2015 for their consideration, prior to recommendation to Full Council.

5.13 A single amendment was made following the meeting of the Licensing Sub-Committee, this being that the words Sample Risk Assessment be added at page 60 of the policy.

6. Financial Considerations

*This section has been approved by the following member of Financial Management Unit:
Lisa Turner.*

6.1 There are no financial issues arising from this Report except the cost of the consultation.

Revenue	2015/16	2016/17	2017/18

Capital	2015/16	2016/17	2017/18

7. **Risk Assessment and Management**

- 7.1 The main risks to this report and the Council achieving its objectives are as follows.
- 7.2 Guidance is issued to the Licensing Authorities by the Gambling Commission and the changes are statutory.
- 7.3 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the policy is found not to comply with the requirements of the Gambling Act 2005 and associated legislation, regulations and guidance.
- 7.4 Positive (Opportunities/Benefits):
- 7.4.1 Council will have an adopted policy in place which is clear and transparent, to advise applicants, objectors, elected members and officers of the Council when implementing the provisions of the Gambling Act 2005.
- 7.4.2 Ensure consistency of licensing function by the Council in the exercise of its duties.
- 7.5 Negative (Threats)
- 7.5.1 N/A
- 7.6 The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

There are no significant legal issues arising from this Report. However should operational issues arise, they shall be dealt with on a case by case basis and if and when necessary, minor amendments shall be incorporated into timely reviews of the document, as indeed shall be the case for legislation and good practice guidance.

- 8.1 *This section has been approved by the following member of the Legal Team: John Kirkham.*

9. Equality and Health

- 9.1 **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is not new or being revised. An equality impact assessment is not required. The Policy Statement follows national guidance which has taken account of equality issues.
- 9.2 **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

10. Human Rights

- 10.1 There are no Human Rights issues arising from this Report.
- 10.2 There are no Human Rights issues arising from this Report. However the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principles of proportionality i.e. is the decision/ action proportionate to what it wishes to achieve.

11. Sustainability (including climate change & change adaptation measures)

- 11.1 Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

12. Recommendation(s)

- 12.1 The Licensing Sub-Committee has considered the responses to the consultation and approved the amendments to the Policy based on those responses, and recommended it to Full Council for adoption by 31st January 2016.
- 12.2 The Licensing Sub-Committee recommends to Full Council that the Enforcement Team Leader write to Coral and Goss chawks Solicitors regarding their concerns contained in the consultation response.

13. Background papers

- 13.1 Gambling Commission Policy Statement Guidance March 2015

14. Appendices

- 14.1 Appendix 1: Gambling Act Daft Policy Version 1.0 2016 – 2019
- 14.2 Appendix 2: Matrix of changes
- 14.3 Appendix 3: Responses to the consultation