

Title	Gambling Act Policy 2022-2025 for full council adoption
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not Applicable
Corporate Priority	Community Environment Service delivery
Recommendations	Council is asked to approve the adoption of the Gambling Act Policy 2022-2025.
Reason for Recommendation	Statutory requirement under the Gambling Act 2005

1. Summary of the report

1.1 This report seeks approval from Council to adopt the Gambling Policy 2022-2025 in accordance with the timetable specified in this report. This report was considered by the Licensing Committee on 05 December 2023 who resolved to recommend to Council that this policy be adopted.

2. Key issues

2.1 The Gambling Act 2005 places a duty on local authorities to licence gambling premises.

2.2 The Act requires all local authorities to produce a Statement of Gambling Principles (the Policy) which licensing officers must give consideration to when determining gambling licence applications for their district.

2.3 It should be noted that functions in relation to the three-year policy statement cannot be delegated and remain functions of the Council.

2.4 Regular review and adoption of the Statement of Gambling Policy ensures that the licensing framework are up to date and effective in ensuring a safe and regulated environment for users of licensed premises. It will also ensure that there are methods for robust enforcement and review of problem licensed premises.

2.5 The policy statement under the Act lasts for a maximum period of 3 years but can be reviewed and revised by the Council at any time

2.6 The Licensing Committee agreed a draft revised policy for consultation on 30 October 2023. Consultation took place between 1 November 2023 and 14 November 2023 with those as published in the draft policy.

2.7 During the consultation period, there were five responses. The responses had nothing to add to the policy, however one comment helpfully pointed out a typographical error.

3. Options analysis and proposal

3.1 The preferred option is for Licensing Committee to recommend the policy to Council for adoption – in accordance with the timetable set out in this report.

3.2 There is an option for Licensing Committee to amend the policy. However, if the Committee decides on the latter course of action this will cause a delay in implementation of the policy.

3.3 If the Council fails to prepare and publish the policy statement the Council may be challenged when exercising its functions under the Act through a number of routes, e.g. service complaints to the Local Government and Social Care Ombudsman and judicial review. Conversely, by preparing and publishing the policy statement, the Council is complying with its legal obligation. In addition, the Council provides a defined framework within which to exercise its functions and makes it clear to all stakeholders the manner by which the Council intends to exercise its functions.

3.4 The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with relevant legal procedures prescribed by the Act and with guidance issued by the Gambling Commission.

3.5 The policy statement does not breach any individual or group's human rights; it sets out processes and procedures that aim to protect human rights, in particular those rights that relate to a right to a fair trial, no punishment without law and right to respect for private and family life. If the policy statement were not followed, there is a risk that human rights may be breached.

3.6 Equality and Social Inclusion Impact issues for Protected Characteristic groupings during the consultation.

3.7 Age, in relation to children and young people;

- Disability, in relation to vulnerable adults; and
- Social Inclusion, in relation to the above and to those whom we may describe as vulnerable, including armed forces and ex-armed forces service personnel.

3.8 Reducing gambling related harm to residents is addressed in both the Gambling Act 2005

4. Financial implications

- 4.1 There are no financial implications resulting from the matters considered in this report. Costs associated with consultation and publication are minimal and will be met from within existing Licensing budgets.

5. Risk considerations

- 5.1 Audit have advised:

Risk: A lack of governance in relation to the Gambling Act 2005 may result in a failure to fulfil the Council's statutory requirements.

Mitigation: The Statement of Gambling Policy 2024-2027 is aligned with the licensing objectives as set out in section 1 of the Act. The licensing objectives referenced 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.

Risk: Failure to achieve the licensing objectives set out in the Gambling Act 2005 would imply that the Council is not as effective as it could be in achieving its duty and regulatory functions as a licensing authority.

Mitigation: In carrying out its licensing functions the Council will have regard to guidance issued by the Gambling Commission, the Gambling Commissions licence conditions, and codes of practice.

Risk: An approved Gambling Policy and mechanisms for regular policy review is not in place.

Mitigation: The production and approval of the Statement of Gambling Policy 2024-2027 demonstrates that the Council conforms with the requirement of the Gambling Act 2005.

6. Procurement considerations

- 6.1 This report refers to a draft policy for which there are no Procurement considerations.

7. Legal considerations

- 7.1 Under section 349 of the Gambling Act 2005, a Licensing Authority must prepare and publish the policy they propose to apply in exercising their functions under the Act.

- 7.2 Before determining a statement of policy, the licencing Authority has a statutory duty to consult, and before a statement comes not effect it must be published and advertised.

- 7.3 Prior to the policy coming into effect, it must be advertised in accordance with the Gambling Act 2005 (Licensing Authority Statement) (England and Wales) Regulations 2006.

8. Other considerations

- 8.1 In revising the policy and conducting the required consultation the Council will meet the requirements of the Gambling Act 2005.

9. Equality and Diversity

- 9.1 The Council's draft Gambling Policy has been drafted with Equalities issues being considered in the context of the licensing objectives and local area plan. Specifically relevant to people with protected characteristics is the Licensing objective to protect children and other vulnerable persons from being harmed or exploited by gambling. This engages the characteristics of age and potentially disability.
- 9.2 An Equalities Screening Assessment has been carried out. The revised draft policy does not have any impact on protected characteristics.
- 9.3 Members are referred to section 1.5.1 of the draft Policy which sets out how the authority intends to protect children and to section 2.3 concerning Local Risk Assessments, which take into account factors such as the location of premises and their proximity to schools, nurseries, childcare facilities, centres for the care of vulnerable adults and or children, including facilities for the disabled and residential areas with a high concentration of children or older persons, demonstrating that the Council has had due regard to Equalities issues throughout.
- 9.4 The Local Area Plan contains key demographic information for the borough with regard to the protected characteristics under the Equality Act 2010.

10. Sustainability/Climate Change Implications

- 10.1 There are none.

11. Timetable for implementation

- 11.1 In revising the draft policy and conducting the required consultation the Council will meet the requirements of the Gambling Act 2005.
- 11.2 The proposed timetable is as follows:
- Report to Licensing Committee on 5 December 2023 to seek a recommendation to adopt a final proposed policy.
 - Recommendation to Council on 14 December to adopt the final proposed policy.

12. Contact

- 12.1 Lucy Catlyn, Principal Licensing Officer (01784 444295)
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Background papers

The Gambling Act 2005 <http://www.legislation.gov.uk/ukpga/2005/19/contents>

The Gambling Act 2005 (Licensing Authority Statement) (England and Wales) Regulations 2006. <https://www.legislation.gov.uk/uksi/2006/636/contents/made>

The Gambling Commission's latest 'Guidance to Licensing dated 13 May 2021
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

Gambling Commission - Licence Conditions and Codes of Practice dated 31 October 2020
Licence Conditions and Codes of Practice - Gambling Commission

Appendices: Spelthorne Borough Council Statement of Gambling Policy 2022-2025

