

**LICENSING ACT COMMITTEE****24 NOVEMBER 2021**

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| <b>REPORT TITLE</b> | <b>DRAFT STATEMENT OF POLICY UNDER THE GAMBLING ACT 2005</b> |
| <b>REPORT OF</b>    | <b>DIRECTOR OF LAW AND GOVERNANCE</b>                        |

**REPORT SUMMARY**

The purpose of this report is for the Committee to recommend to Council the approval of the draft Statement of Policy under the Gambling Act 2005.

This matter affects all Wards within the Borough.

**RECOMMENDATION/S**

It is recommended that the draft Statement of Policy attached in Appendix 1 to this report be recommended for approval by Council.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 It is a statutory requirement for the Council to review and consult upon a revised Statement of Policy under the Gambling Act 2005 every three years. The current policy was last approved in December 2018 and therefore in order to comply with statutory requirements the review of this policy must be completed no later than December 2021. It is therefore proposed that a revised Statement of Policy is presented to Council for approval on 6 December 2021.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Committee direct officers to make amendments to the revised draft policy before it is submitted to Council for approval on 6 December 2021.
- 2.2 The Committee do not approve the amendments made to the current policy as detailed in paragraph 3.3 and direct officers to present the current policy to Council for approval on 6 December 2021 with no amendments. This however is not considered to be appropriate due to the risks presented in paragraph 7.2 of this report.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Gambling Act 2005 requires the Council to prepare and publish a statement of the principles to be applied when exercising its functions under the Gambling Act 2005. The Statement of Principles is referred to in this report as the Council's Statement of Policy. It is a requirement that this policy document be reviewed every three years.
- 3.2 The Council's Statement of Policy was first published in December 2006 and has been subject to a review every 3 years since that date. Each review has been consulted upon and subsequently recommended to Council for approval by this Committee.
- 3.3 Following a review of the current Statement of Policy, proposed amendments have been made to the Statement of Policy. These amendments are highlighted in red in the revised draft Statement of Policy attached in Appendix 1 to this report and are summarised below:
- Updates to contact details, committee and panel
  - Reference to the withholding of personal details
  - Additional section on test purchasing and age verification
  - The Licensing Authority's role in remote gambling
  - Further information in respect of who can apply for a licence and the information required
  - Additional information relating to the protection of children and vulnerable adults
  - The meaning of 'available for use'
- 3.4 The draft Statement of Policy has been circulated for consultation to a number of consultees and has been publicised on the Council's website. A list of consultees is

attached in Appendix 2 to this report. The consultation period commenced on 1 October 2021 and closes on 18 November 2021.

3.5 At the time of writing this report no comments have been received in response to the consultation. Should any comments be received before the close of the consultation period these comments will be presented at the meeting.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 The costs incurred in undertaking this consultation will be recovered from licence fees.

#### **5.0 LEGAL IMPLICATIONS**

5.1 Section 349 of the Gambling Act 2005 places a duty on the Licensing Authority to undertake a review of its Statement of Policy every three years. In accordance with section 154 of the Gambling Act 2005 this function cannot be delegated to the Licensing Act Committee and must therefore be approved by Council. In accordance with this requirement a revised policy must be published no later than December 2021.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

6.1 The work undertaken to review the Statement of Policy and undertake the consultation has been undertaken within existing resources.

#### **7.0 RELEVANT RISKS**

7.1 There is a risk that the Council could be open to challenge if the current policy is not reviewed and republished within the statutory timescale without sufficient justification as to why this is the case.

7.2 If the proposed amendments to the Statement of Policy summarised in paragraph 3.3 of this report are not approved it is considered that the policy would not include relevant additional information which it is considered will further assist licence holders and those seeking licences or permissions to comply with the requirements of the Gambling Act 2005

7.3 Should the Council not adopt the proposed amendments which relate to children and vulnerable adults it may put them at a higher risk of harm from gambling.

#### **8.0 ENGAGEMENT/CONSULTATION**

8.1 The guiding principles for a fair consultation can be summarised as follows:

- It should be at a time when proposals are at a formative stage
- Must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response
- Those consulted should be made aware of the factors that are of decisive relevance to the decision
- Adequate time should be given for consideration and response

- The product of the consultation should be conscientiously taken into account by the decision makers in finalising their statutory proposals when the ultimate decision is taken

8.2 Consultation has taken place with statutory consultees and those bodies listed in Appendix 2 of this report.

## 9.0 EQUALITY IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

Yes. The impact review is attached.

## 10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are none arising from the content of this report.

## 11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 The Licensing Authority has a duty to ensure that gambling is undertaken in a fair and open way and that children and vulnerable adults are protected from being harmed or exploited by gambling. The Statement of Policy sets out the principles to be applied in exercising its functions under the Gambling Act 2005 to achieve these objectives.

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## APPENDICES

Appendix 1 – Draft Statement of Policy

Appendix 2 – List of Consultees

## BACKGROUND PAPERS

The Gambling Commission Guidance to Licensing Authorities.

## SUBJECT HISTORY (last 3 years)

| Council Meeting              | Date             |
|------------------------------|------------------|
| Council                      | 10 December 2018 |
| Licensing Act 2003 Committee | 17 October 2018  |

# Equality Impact Assessment Toolkit

(April 2014)

**Section 1: Your details**

**EIA lead Officer:** Margaret O'Donnell

**Email address:** margaretodonnell@wirral.gov.uk

**Head of Section:** Vicki Shaw

**Chief Officer:** Director of Law and Governance

**Directorate:** Law and Governance

**Date:** 3 November 2021

**Section 2: What Council proposal is being assessed?**

Review of Statement of Policy in respect of Gambling

**Section 2a: Will this EIA be submitted to a Cabinet or Policy & Performance Committee?**

**Yes /No** If 'yes' please state which meeting and what date

Licensing Act 2003 Committee – 24 November 2021

**Regeneration & Environment** (Environment & Regulation, Housing & Community Safety, Regeneration)

<http://bit.ly/regenEIA>

**Section 3:** Does the proposal have the potential to affect..... (please tick relevant boxes)

- Services**
- The workforce**
- Communities**
- Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) for publishing)

**Section 4:**

Could the proposal have a positive or negative impact on any protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

| <b>Which group(s) of people could be affected</b> | <b>Potential positive or negative impact</b>   | <b>Action required to mitigate any potential negative impact</b>  | <b>Lead person</b> | <b>Timescale</b> | <b>Resource implications</b> |
|---|--|---|--------------------|------------------|------------------------------|
| All   | The Policy recognises the potential for negative impact of gambling and sets out the parameters to ensure legal compliance and how the licensing objectives under the Gambling Act 2005 should not be undermined | Applications for licences under the Gambling Act 2005 are subject to consultation and any negative impact could be considered by a Licensing Act 2003 Sub-Committee | Margaret O'Donnell | Ongoing          | With current staff resources |

**Section 4a: Where and how will the above actions be monitored?**

Through the Licence application process

**Section 4b: If you think there is no negative impact, what is your reasoning behind this?**

**Section 5: What research / data / information have you used in support of this process?**

**Section 6: Are you intending to carry out any consultation with regard to this Council proposal?**

Yes

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why:

(please stop here and email this form to your Chief Officer who needs to email it to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) for publishing)

**Section 7: How will consultation take place and by when?**

Wide consultation was undertaken between 1 October 2021 to 18 November 2021, details of which can be found within the report to the Licensing Act 2003 Committee on 24 November 2021.

Before you complete your consultation, please email your preliminary EIA to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) via your Chief Officer in order for the Council to ensure it is meeting it's legal publishing requirements. The EIA will need to be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 4. Then email this form to your Chief Officer who needs to email it to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) for publishing.

**Section 8:**      Have you remembered to:

- a)      **Select appropriate directorate hyperlink to where your EIA is/will be published (section 2a)**
- b)      **Include any potential positive impacts as well as negative impacts? (section 4)**
- c)      **Send this EIA to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) via your Chief Officer?**
- d)      **Review section 4 once consultation has taken place and sent your updated EIA to [engage@wirral.gov.uk](mailto:engage@wirral.gov.uk) via your Chief Officer for re-publishing?**