

WEST NORTHAMPTONSHIRE COUNCIL FULL COUNCIL

23rd March 2023

**David Smith Cabinet Member for Community Safety & Engagement and
Regulatory Services**

Report Title	Gambling Act 2005 – New three-year Statement of Gambling Licensing Principles Policy for the period 2023 – 2025.
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List of Appendices

Appendix A – Gambling Act 2005 Statement of Licensing Principles Policy

Appendix B - Consultation Responses

- 1.1. For Council to resolve to publish a new-three year West Northamptonshire Council Statement of Gambling Licensing Principles Policy, following statutory public consultation and recommendation by the Alcohol and Gambling Licensing Committee.

2. Executive Summary

- 2.1 West Northamptonshire Council is a Licensing Authority for the purposes of the Gambling Act 2005 ("the Act"). It is responsible for issuing licences for premises where gambling activities are proposed to take place within its area. Examples of such premises are betting shops, bingo halls and entertainment / gaming centres.
- 2.2 Licensing Authorities are also responsible for issuing permits for gaming machines, notices for one-off gambling events and for registering societies who wish to carry out small scale lotteries, and for ensuring local compliance and enforcement of the Act.
- 2.3 The Gambling Commission is responsible for licensing operators and individuals involved in the provision of gambling activities, including online and remote facilities.
- 2.4 The Act and associated regulations require Licensing Authorities to prepare and publish a three-year Statement of Gambling Licensing Principles Policy ("the Policy"), setting out its approach to the consideration and determination of applications for gambling premises licenses and compliance and enforcement action. Only the full Council of a Licensing Authority may lawfully resolve to publish a Statement of Gambling Licensing Principles Policy.
- 2.5 Licensing Authorities can lawfully resolve not to issue casino premises licences and as such can include a "no-casinos" resolution within their Statement of Gambling Licensing Principles Policy, although this would not apply to any existing licensed casino premises. A "no casinos" resolution does not have to be made when publishing a three-year Statement of Gambling Licensing Principles Policy and can be included within that Policy at any time whilst it is in force.

3. Recommendations

- 3.1 It is recommended that Council resolves to publish the draft Policy at Appendix A as the West Northamptonshire Statement of Gambling Licensing Principles Policy 2023-2025.
- 3.2 It is not recommended that Council passes a "no casinos" resolution for inclusion within the West Northamptonshire Statement of Gambling Licensing Principles Policy 2023-2025.

4. Reason for Recommendations

- 4.1 The three-year Statement of Gambling Licensing Principles Policies made by Daventry District, South Northants District and Northampton Borough Council before the creation of West Northamptonshire Council have now expired. As a result, this Council has a legal duty publish its own three-year Policy as soon as possible in accordance with the Act.
- 4.2 On 15th December 2022, the Alcohol and Gambling Committee approved the draft Policy at Appendix A and recommended to Council that it resolve to publish it as the new West Northamptonshire Council three-year Statement of Gambling Licensing Principles Policy for the period 2023-2025. It also recommended that Council does **not** pass a “no casino” resolution for inclusion within the Policy.
- 4.3 It is currently not possible for the Gambling Commission to issue any non-remote casino operating licences, which are required before any application for a premises licence could be made to this Council. Regulations made under the Act only permit casino operating licences for one regional casino, 8 large casinos and 8 small casinos to be awarded within the United Kingdom. All of the large and small casino operating licences have already been awarded and there are currently no government plans to issue any regional casino operating licence.
- 4.4 In addition, only those licensing authorities named in the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 may currently award either “large” or “small” casino premises licenses. Neither Daventry District Council, South Northants District Council, Northampton Borough Council nor West Northamptonshire Council are named in that Order. Further legislation would be required in order for this Council to be able to consider any application for a casino premises licence.
- 4.5 A “no casino” resolution would also not affect any of the four existing casino premises licences in West Northamptonshire, all of which operate under grandfather rights conferred by previous gambling legislation.
- 4.6 If any casino operating licenses become available in the future, this Council could then consider whether it ought to pass a “no casino” resolution for inclusion within its three-year Policy.

5. Report Background

- 5.1 Statements of Gambling Licensing Principles Policies made under the Act must be reviewed by Licensing Authorities at least every three years and either renewed or a new Policy published, following a statutory consultation exercise and in line with guidance for Licensing Authorities issued by the Gambling Commission, along with any relevant Codes of Practice, the licensing objectives and any consultation responses.

- 5.2 The Act and associated Regulations are prescriptive in terms of the form and the information to be included within Policies, resulting in noticeable similarities between Policies across the country and limited local influence over what may be included within them.
- 5.3 Licensing Authorities have a legal duty to “aim to permit” gambling activities through the licensing of gambling premises, provided they consider it to be in accordance with any relevant Code of Practice, Gambling Commission guidance, and the Licensing Authority’s Statement of Licensing Principles Policy. Any gambling activity should also be ‘reasonably consistent’ with the licensing objectives, which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - Ensuring that gambling is conducted in a fair and open way and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.4 However, this framework does not result in a presumption that premises licenses will be granted and any which are will subject to mandatory conditions and the Codes of Practice issued by the Gambling Commission. Additional non-mandatory conditions can also be imposed on premises licences at a hearing where it is considered necessary.
- 5.5 Gambling activities which are carried out in licensed premises such as betting shops are generally considered by the Gambling Commission guidance to be safer for the user in terms of the control mechanisms in place to mitigate addictive or compulsive gambling behaviour because of the highly regulated nature of the environment. Users also have the ability to take advantage of self-exclusion schemes and signposting is available for treatment options for problem gamblers.
- 5.6 In terms of protecting children and other vulnerable persons from being harmed or exploited from gambling, the draft Policy at Appendix A sets out, at Part B section 1.25, the Licensing Authority’s expectations in relation to the measures it expects operators to take in order to ensure compliance with this objective. Control measures are suggested which operators can consider for inclusion within their local risk assessments, depending on the local circumstances of the premises.
- 5.7 Should concerns arise, premises licences can be reviewed upon receipt of an acceptable review application, which can be made by any responsible authority or interested party. The Licensing Authority may also request a review of a premises licence where it considers it to be appropriate.
- 5.8 Gambling premises licence applications cannot be lawfully refused on the grounds of either business need or because of objections to gambling premises generally. Premises licenses cannot lawfully be revoked on the same grounds.

Risk Assessments and Local Area Profiles

- 5.9 The Gambling Commission Licence Conditions and Codes of Practice (“LCCP”) require all gambling premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises. They are required to have in place policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, premises licensees must take into account relevant matters identified in the Licensing Authority’s Policy.
- 5.10 Applicants must carry out a local risk assessment when applying for a new premises licence and existing operators are required to review. They must review risk assessments when applying for premises licence variations or when there are any changes in the local area which may affect the provision of gambling activities.
- 5.11 Paragraph 1.9 of Part B of the draft Policy sets out that the factors that applicants for new premises licenses and existing operators will be expected to consider when preparing their local risk assessments are:
- The location of services for children such as schools, playgrounds, leisure/ community centres and other areas where children will gather,
 - The vicinity of the premises to gambling or addiction support or treatment centres where children or vulnerable groups may be present,
 - Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, service tills, refreshment and entertainment type facilities,
 - The demographics of the area in relation to vulnerable groups,
 - Whether the premises are in an area subject to high levels of crime and / or disorder,
 - Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected and
 - Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- 5.12 This list is not exhaustive and other local factors that are identified must be taken into consideration. The onus will be placed on premises licence applicants and holders to identify local risks.

Casinos

- 5.13 A casino is “*an arrangement whereby people are given an opportunity to participate in one or more casino games*”. Casino games are defined by the 2005 Act to mean games of chance which are not equal chance gaming. Equal chance gaming is gaming which

does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

- 5.14 When the Gambling Act 2005 was implemented in September 2007 it was possible for local authorities to submit a bid to the Gambling Commission for the opportunity to obtain a non-remote casino operating licence within their area. The regulations permitted operating licences for one regional casino, 8 large casinos and 8 small casinos within the United Kingdom. All of the licences for large and small casinos were awarded, although not all of the planned casinos were subsequently built. The plans for a regional casino in Manchester were scrapped by the government in 2008. There is currently no provision to lawfully grant any further casino non-remote operating licences due to the quota limits on the overall number of operating licenses having been reached, although this situation may change in the future.
- 5.15 Licensing Authorities have the power to resolve not to issue casino premises licences within in their area, which is known as a "no casino" resolution. This resolution does not necessarily have to be made when a Licensing Authority publishes a new or revised three year Policy. A "no casino" resolution must only be passed at a full meeting of the Council, rather than at an Alcohol and Gambling Licensing Committee or Cabinet and would form part of the Policy itself if passed.
- 5.16 A "no casino" resolution can only prevent the creation of new casinos. It would have no effect on casino premises licences issued before the resolution takes effect. Similarly, a resolution would not affect the ability of existing casinos with preserved entitlements from the Gaming Act 1968 ("grandfather rights") from continuing to operate as casinos.
- 5.17 In relation to the situation prior to the creation of this Council, Northampton Borough Council decided not to make a "no casino" resolution. There are a total of four premises licences issued for existing casinos in Northampton, each of which were automatically converted by grandfather rights to have effect under the 2005 Act. However, South Northants and Daventry District Councils each passed a "No Casino" resolution, although these no longer have any effect due to the expiration of both three-year Policies.
- 5.18 As set out at paragraph 5.16 above, it is not currently possible for the Gambling Commission to lawfully grant any new casino operating licences due to the lack of quota availability. Were this situation to change, the grant of such a licence could provide significant economic and employment benefits to the local area. The requirements within the Act, the relevant Codes of Practice and planning controls provide safeguards so as to ensure that any such premises would be properly operated and would not cause a detrimental impact on the surrounding area.
- 5.19 West Northamptonshire Council is not named authorities and neither are Daventry District Council, Northampton Borough Council or South Northants District Council. As a result, West Northamptonshire Council is not currently able to consider applications for casino premises licenses unless the 2008 Order is amended by Parliament
- 5.20 Should any future casino premises license applications be possible, they would have to be determined by an Alcohol and Gambling Licensing Sub-Committee if any relevant

representations were to be received in the application notice period or where Licensing Officers propose to exclude a standard condition from the premises licence or add a non-standard condition. This is in accordance with the Alcohol and Gambling Committee terms of reference as set out at paragraph 4.2 of the West Northamptonshire Council Constitution. This would ensure that the Council has an opportunity to scrutinise in detail applicable applications and to ensure that it is satisfied with the proposals set out and the mitigation measures proposed prior to the grant of any premises licence.

- 5.21 Given this robust approach and after carefully considering the above, the Alcohol and Gambling Licensing Committee has recommended that Council does not pass a “no casino” resolution for inclusion within the new three-year Policy. This would not prevent full Council from considering whether to do so in the future.

6. Issues and Choices

- 6.1 The choices available to the Council regarding the draft Policy at Appendix A are;
- a) To resolve to publish the draft Policy as the West Northamptonshire Statement of Gambling Licensing Principles Policy 2023-2025. **This is recommended.**
 - b) To refuse to resolve to publish the draft Policy as the West Northamptonshire Statement of Gambling Licensing Principles Policy 2023-2025. **This is not recommended.**
- 6.2 The choices available to the Council regarding a “no casino” resolution are;
- c) To refuse to pass a “no casino” resolution for inclusion within the three-year Policy. **This is recommended.**
 - d) To pass a “no casino” resolution for inclusion within the three-year Policy. **This is not recommended.** Also see paragraphs 5.16 to 5.24 above.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.2 The issuing of relevant gambling premises licenses would generate income revenue, subject to certain limitations in relation to the level at which such fees can be set. Otherwise, there are no resource implications.

7.2 Legal

- 7.2.1 It is legal requirement for any licensing authority to prepare and publish a new three-year statement of the principles that they propose to apply in exercising their functions under the Act. No such Policy is currently in force in the West Northamptonshire area and so this Council must publish one at the first available opportunity. Not doing so would

leave the Council at risk of being challenged in the High Court for failure to publish a Policy.

7.2.2 It is likely that the outcome of such a challenge would be that the Council would be ordered to comply with the Act and publish a Statement of Gambling Licensing Principles Policy as soon as possible. If any challenge is successful, the Council would probably be required to pay the legal costs of the entire judicial challenge process.

7.2.3 The Policy Statement Regulations require a Statement of Gambling Licensing Principles Policy to include certain information. The draft Policy at Appendix A includes that required information.

7.2 Consultation

7.3 The Council conducted a public consultation on its website in respect of the draft Policy between 27th June 2022 and 21st August 2022 and invited comments and representations. The Council also wrote to the statutory consultees, licence holders and other interested parties as part of this consultation process, as required by the Act. A summary of the consultation responses can be found at Appendix B.

7.4 A total of 22 responses were received during the consultation period who identified themselves as being in the following groups;

- 1 Community Group Representative
- 1 West Northamptonshire Council Councillor
- 20 Members of Public

7.5 A number of the comments sought to address the moral issues associated with gambling generally. It should be noted that gambling is a lawful and regulated activity in the UK and that licensing authorities can lawfully only enforce national gambling legislation. Statements of Gambling Licensing Policy form part of that enforcement process and it would be unlawful to publish a Policy that sought to prevent or reduce gambling in general in the WNC area.

7.6 The specific risks highlighted in the responses are addressed in the policy. It is felt that those risks will be mitigated or removed if the draft Policy at Appendix A is published.

7.7 A key licensing objective of the Act is to protect children and other vulnerable people from being harmed or exploited by gambling. It is not lawful for children to engage in or enter a number of different types of gambling premises and where they may be close proximity, the Policy seeks to address this matter at pages 11 and 12 by ensuring that appropriate compliance checks and risk assessments are undertaken. There are further controls that have been proposed at page 15 taking into consideration the Gambling Commission guidance around protecting children and other vulnerable persons.

7.8 Consideration by the Alcohol and Gambling Licensing Committee

7.8.1 The Alcohol and Gambling Licensing Committee passed a resolution approving the draft Policy at Appendix A on 15th December 2022 and recommended to Council that it be published as the West Northamptonshire Council three-year Statement of Gambling Licensing Policy for the period 2023 to 2025. The Committee also passed a resolution recommending that Council not pass a “no casino” resolution for inclusion within the Policy at this time.

7.9 Climate Impact

7.9.1 There are no climate impact implications arising from this report or from the statutory gambling licensing regime in general.

7.10 Community Impact

7.10.1 The Council would be in breach of its statutory duty as the Licensing Authority if it did not produce a Licensing Policy Statement.

7.10.2 Aside from the requirement to review and publish an updated policy, the licensing service will engage with internal and external partners to ensure that related considerations such as public health and anti-poverty are discussed, and opportunities which will benefit the West Northamptonshire community are optimised through partnership working.

7.10.3 We are also aware that the Government intends to publish a White Paper in due course, in respect of the gambling regulatory framework considering if it is fit for the digital age.

7.10.4 The council is not precluded from making further revisions to policy and as such, if a need to amend policy is identified from further work with partners or following the Government’s White Paper, this can be brought before Full Council for further consideration.

7.11 Communications

7.11.1 Communications activity, predominantly focusing around social media and online channels, was carried out during the consultation period to make the public aware of the new draft Policy and invite comments and representations.

7.11.2 Statements of Gambling Licensing Principles Policies must be published in accordance with the requirements of the Gambling Act (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 before they come into force. This will ensure that the public are made aware that the Policy has come into force.

8 Background Papers

- Gambling Commissions Guidance for Local Authorities
<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>
- Gambling Commission Local Authority Bulletin
<http://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-January-2018.pdf>
- Report to the Alcohol and Gambling Licensing Committee on 15th December 2022 and published minutes. [Agenda for Alcohol & Gambling Licensing Committee on Thursday 15th December 2022, 6.30 pm - West Northamptonshire Council \(moderngov.co.uk\)](#)