

Chichester District Council

Alcohol & Entertainment Licensing Committee

24th June 2021

Cabinet

2nd November 2021

Council

23rd November 2021

The Council's Draft Statement of Licensing Policy under the Licensing Act 2003 (2022-2027) & Draft Statement of Policy under the Gambling Act 2005 (2022-2025)

1. Contacts

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2. Executive Summary

To introduce and seek approval for public consultation on both the Council's Draft Statement of Licensing Policy under the Licensing Act 2003 for the period 2022-2027 and the Council's Draft Statement of Policy under the Gambling Act 2005 for the period 2022-2025.

3. Recommendations

Recommendations to Alcohol & Entertainment Licensing Committee

- 3.1 That the Draft Statement of Licensing Policy 2022-2027 (Licensing Act 2003) at Appendix 1, and Draft Statement of Policy 2022-2025 (Gambling Act 2005) at Appendix 2, be considered and approved for public consultation.
- 3.2 That authority is delegated to the Director of Growth and Place to consider, in consultation with the Cabinet Member for Housing, Communications, Licensing and Events, any representations arising from consultations. Provided any representations received do not require substantial amendments to either draft Policy, to recommend approval of both policies by Cabinet on 2 November 2021 with subsequent adoption by Council on 23 November 2021.

- 3.3 In circumstances where substantial amendments to either Policy are required, that these are reported back to the Alcohol & Entertainment Licensing Committee for further consideration.**

Recommendation to Cabinet

- 3.4 That the Policies (as amended in accordance with 3.2 and/or 3.3 above) be approved and referred to Council for consideration on 24 November 2021.**

Recommendation to Council

- 3.5 That the Policies (as amended in accordance with 3.2 and/or 3.3 above) be approved and published.**

4. Background

Licensing Act 2003

- 4.1 Section 5(1) of the Licensing Act 2003 (the 'Act') requires a Licensing Authority to publish a Statement of Policy with respect to the exercise of its various functions in relation to alcohol and entertainment licensing. In addition, the Act provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken, these include:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 4.2 Whilst ordinarily a Policy is adopted for a period of 5 years and during this period kept under review, the current Policy only came into effect on the 24th November 2020 and is due to expire on the 31 January 2022.
- 4.3 The reason for this short period was as a result of guidance produced by the Local Government Association (the 'LGA') in their publication titled '*Approaches to managing licensing and related issues during the COVID-19 pandemic – Advice for Licensing Authorities*' (17 April 2020). Within this guidance it was suggested that where Licensing Authorities were expected to undertake a full review of their Policy, which would ordinarily include extensive consultation, that alternatively '*Councils may want to consider with members whether it would be pragmatic to delay their consultations given the current challenges in effectively engaging with the local trade and residents. The LGA has flagged to the Home Office that this should be acceptable, assuming work is progressed once some level of normality has returned.*'
- 4.4 This Licensing Authority agreed that given the significant impact that the Covid-19 pandemic was having on the licensed trade, other organisations and the public, that it was not appropriate to undertake a normal policy review during the height of the pandemic. However, it was clearly incumbent upon the Licensing Authority to maintain a 'live' policy in order that it could continue to exercise its various statutory licensing functions. Last year this Licensing Authority simply reviewed the Policy that was in place to ensure it remained correct with it being readopted by Council on 24

November 2020. No substantive changes in terms of policy or requirements were made.

- 4.5 The current Policy has not been the subject of any legal challenge or complaint and has been considered by officer and members when carrying out their various functions, whether that is assisting applicants or by a Sub-Committee when considering and determining contested applications.

Gambling Act 2005

- 4.6 Section 349 of the Gambling Act 2005 (the 'Act') requires all Licensing Authorities to prepare and publish a statement of licensing principles that it proposes to apply in exercising its various functions under the Act, commonly referred to as a 'Statement of Policy' (the 'Policy'). A number of specific matters must be considered and determined within the Policy in order that the provision of betting, gaming and lotteries within the district is provided in a manner that promotes the three statutory licensing objectives, these 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.

- 4.7 Once adopted by the Authority, a Policy ordinarily has effect for a period of three years and is kept under review during this period to ensure that it remains suitable and adequately addresses any current or emerging issues.

- 4.8 The current Policy has had effect since 20 June 2019 following approval by Council and has not been the subject of any legal challenge or complaint.

- 4.9 The current Policy is due to expire at the end of 31 January 2022 and it is therefore necessary to undertake a review.

5. Outcomes to be Achieved

- 5.1 Approval of a ten (10) week public consultation in respect of both of the proposed revised policies for the Chichester district. The consultation period will commence on Monday 28 June 2021 and conclude at the end of Sunday 5 September 2021.

- 5.2 Following the public consultation, all responses received will be carefully considered and, where appropriate, further necessary amendments made. The date for approval and publication of both policies is by no later than 31 January 2022, thus it is intended to present both final policies to Council for approval on the 23 November 2021.

6. Proposal

Licensing Act 2003

- 6.1 In preparing the revised draft Policy for the period 2022-2027, officers have once again carefully checked through the Policy so as to ensure that it remains correct in

terms of content. The draft Policy has been considered against the current Home Office Guidance (issued in April 2018) under Section 182 of the Act.

- 6.2 In view of the Policy having been reviewed last year and there being no legislative changes since, no substantial changes are being proposed. However, as a direct response to the Covid-19 pandemic and to aid the promotion of economic recovery and growth, District and Borough councils were given a new statutory responsibility under the Business and Planning Act 2020. This responsibility was to temporarily administer and enforce new provisions relating to the granting of Pavement Licences. The draft Policy includes at paragraph 3.12 reference to this new statutory function as operators of licensed premises may be entitled to make an application for a Pavement Licence. Whilst presently this additional responsibility is to remain until 30 September 2021, HM Government have indicated that there may be an extension of this function until 30 September 2022.

Gambling Act 2005

- 6.3 When preparing the revised Policy, officers have carefully considered the contents of the current Policy specifically against the 5th edition of the statutory guidance issued by the Gambling Commission in September 2015 with Parts 17, 18 and 19 updated in September 2016. The Act requires that Licensing Authorities must have regard to this guidance. The proposed Policy continues to be consistent with the statutory guidance.
- 6.4 The overarching legislative framework of the Gambling Act 2005 remains largely unaltered, and there are no legislative changes which necessitate amendments to the current Policy.
- 6.5 The Authority is required to formally designate a body responsible for advising it about the protection of children from harm. The Authority proposes within the revised Policy to continue to designate the West Sussex Local Safeguarding Children Board for this purpose and this is reflected at paragraph 6.2 of the proposed Policy.
- 6.6 The Authority also historically passed a 'no casino' resolution under Section 166(1) of the Act. It continues to be the case that no approach has ever been made to the Authority by operators wishing to open a casino within the Chichester district. However, this is believed to be largely based on the fact that those who hold a Casino Operating Licence granted by the Gambling Commission are aware that nationally only certain Licensing Authorities are permitted to grant casino premises licences. Historically this Licensing Authority chose not to enter the bidding process and therefore could not, irrespective of the 'no casino' resolution, grant a casino premises licence. What the 'no casino resolution' does is state unequivocally that should the position change nationally, that this Licensing Authority would still not consider an application for a casino licence. The proposal within the revised Policy is to maintain the current stance and to continue with the 'no casino' resolution and this is reflected at paragraph 16.2.

7. Alternatives Considered

- 7.1 As referred to above, it is a statutory requirement that the authority prepares and publishes policies with respect to the exercise of its licensing functions under both

Section 5(1) of the Licensing Act 2003 and Section 349 of the Gambling Act 2005.

8. Resource and Legal Implications

8.1 There are no resource and/or legal implications raised other than those set out within the body of this report.

9. Consultation

Licensing Act 2003

9.1 When reviewing the Policy the Authority must consult those persons listed in Section 5 (3) of the Act. These are:

- The Chief Office of Police for the area;
- The Fire and Rescue Authority for the area;
- Each Local Authority's Director of Public Health in England;
- Persons/bodies representative of local premises licence holders;
- Persons/bodies representative of local club premises certificates holders;
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in its area.

Gambling Act 2005

9.2 When reviewing the Policy the Authority must consult those persons listed in Section 349(3) of the Act. These are:

- 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 Authority's 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 Authority's functions under the Act.

9.3 Following the consultation period (28 June 2021 to the end of Sunday 5 September 2021) all responses received will be carefully considered with final proposed policies being prepared. Both final policies will subsequently need to be considered and approved by Council. Once approved, both policies will be published and made available electronically via the Council's website.

10. Community Impact and Corporate Risks

10.1 There are no community impact and/or corporate risks raised by this report.

11. Other Implications

	Yes	No
Crime and Disorder		X
Biodiversity and Climate Change Mitigation		X
Human Rights and Equality Impact		X
Safeguarding and Early Help		X
General Data Protection Regulations (GDPR)		X
Health and Wellbeing		X
Other (please specify)		X

12. Appendices

Appendix 1 - Draft Statement of Licensing Policy 2022-2027 (Licensing Act 2003).
Appendix 2 - Draft Statement of Policy 2022-2025 (Gambling Act 2005).

13. Background Papers

[Home Office - Revised Guidance issued under section 182 of the Licensing Act 2003 - April 2018.](#)

[Gambling Commission Guidance to Licensing Authorities 5th Edition \(September 2015\) with updated Parts 17, 18 and 19 \(September 2016\).](#)