

CABINET

25 April 2017

Title: Gambling Act 2005: Draft Statement of Gambling Licensing Policy 2017 – 2020 Consultation	
Report of the Cabinet Member for Enforcement and Community Safety	
Open Report	For Decision
Wards Affected: ALL	Key Decision: Yes
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Accountable Director: Jonathon Toy, Operational Director, Enforcement Services	
Accountable Strategic Director: Claire Symonds, Chief Operating Officer	
Summary	
<p>The Council, as local licensing authority for gaming and betting, is required under the Gambling Act 2005, to have in place a statement of the principles (a 'policy') by which it will abide in carrying out its licensing responsibilities and to review that policy every three years. The review of the Council's current gambling licensing policy is overdue.</p>	
<p>This report intends to begin the formal process of review of the policy and sets out that process. It also provides for consideration, a copy of the initial draft revised Barking and Dagenham Statement of Gambling Licensing Policy for the period 2017-2020.</p>	
<p>The draft revised policy establishes that this Council has serious concerns around the impact that further growth in the local gambling opportunity may have in the most vulnerable and 'at risk' areas of the borough. It confirms that, as a result, the Council considers it necessary to limit facilities for gambling in areas where its most vulnerable residents may be placed at increasing risk. It states this Council's position to be that all areas where there is high overall risk of gambling related harm are inappropriate for further gambling establishments. Operators are asked not to consider locating new premises or relocating existing premises within these areas, accordingly.</p>	
<p>The draft policy goes on to set out the considerations this Council will have when determining applications for gambling premises licences and details the types of controls the Council might expect to see in place at licensed gambling establishments</p>	

Recommendations

The Cabinet is recommended to:

- (i) Approve the draft Barking and Dagenham Statement of Gambling Licensing Policy for 2017-2020 at Appendix A for public consultation; and
- (ii) Note that a further report will be presented to Cabinet on the outcome of the public consultation and seeking endorsement of the final Policy prior to its submission to the Assembly.

Reasons

To assist the Council in meeting its statutory responsibilities and the priorities:

- Encouraging Civic Pride
- Enabling Social Responsibility

1. Introduction and Background

- 1.1 The Gambling Act 2003 ('the Act') established the national licensing regime for gaming and betting (excepting the national lottery).
- 1.2 The Act provides a two-tier licensing system. The Gambling Commission is responsible for licensing both gambling operators and key industry personnel. Local licensing authorities are responsible for licensing the premises in their area where gambling activities are intended to be provided.
- 1.3 Under the Act, each licensing authority is required to publish a statement of licensing policy and to review this every three years. This Authority published its initial statement in 2007. It has been updated periodically but is now overdue for revision. Each revision of the policy must be subject to public consultation.
- 1.4 The statement of policy aims to set out how the licensing authority intends to approach its licensing responsibilities under the Act.
- 1.5 In carrying out its licensing functions, the Authority is directed by s153 of the Act to 'aim to permit the use of premises for gambling in so far as it thinks fit:
 - In accordance with any code of practice issued by the Gambling Commission;
 - In accordance with any relevant guidance issued by the Gambling Commission;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with the licensing authority's own statement of policy'.
- 1.6 The three licensing objectives stated in the Act are:
 - Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
 - Ensure gambling is conducted in a fair and open way
 - Protecting children and vulnerable people from harm or from being exploited by gambling.

- 1.7 Local licensing authorities are concerned with the third objective (in particular) and with the first objective also.
- 1.8 Many local licensing authorities have held long standing concerns over the directed and restricted nature of the gambling licensing regime. It is believed that this directed approach has prevented local circumstance from being properly taken into account within licensing decisions and this has led to
- Frustration within local licensing authorities over lack of discretion
 - A perceived uncontrolled growth in gambling establishments, particularly betting shops driven by their ability to install up to 4 x £500 jackpot Fixed Odds Betting Terminals
 - The perceived concentration of betting shops in high street locations in more deprived areas
 - Concern that vulnerable people are being targeted and exploited
 - Concern that children are being regularly exposed to gambling and gambling is becoming 'normalised'
- 1.9 In 2016, however, the Gambling Commission made some key changes to its Social Responsibility Code which is imposed on all Operators Licences. The new provisions of the Code require prospective and current operators to have regard within their business risk-assessments to local risks including any set out in the local authority statement of policy. This has provided a first opportunity for local issues to be considered within licence application determinations.

2. Proposal and Issues

The Draft Revised Barking and Dagenham Statement of Gambling Licensing Policy 2017-2020

- 2.1 A copy of the draft revised policy is provided at Appendix A to this document.
- 2.2 In addition, in recognition of the recent changes made to the Commission's Social Responsibility Code (see section 1.9 of this report), the draft revision has been supported and informed through the development of a model of local area based vulnerability to gambling related harm. This 'local area profile' has been compiled using spatial analysis techniques drawing on published, relevant and reliable socio-economic; public health and anti-social behaviour data sets. This can be found on the council intranet at <https://lbbd.sharepoint.com/sites/IntTp/HE/Pages/GamblingRelatedHarm.aspx>

Licensing determinations

- 2.3 It remains the case that each application is required, by law, to be considered upon its own merits and so, this draft policy may not set out to refuse all future licence applications. However, it looks to establish a framework which best places the Council to make future licensing decisions which take into account local information and address local circumstances and concerns.
- 2.4 In the light of the findings of the analysis, the policy makes a number of important statements (section 42 of the draft policy):

- That the Council considers it necessary to limit facilities for gambling in areas where its most vulnerable residents may be placed at increasing risk.
- That areas where there is high overall risk of gambling related harm are inappropriate for further gambling establishments.
- That operators are asked not to consider locating new premises or relocating existing premises within such areas

2.5 Applicants for each category of gambling premises licences are required to review the content of the local area profile and address the concerns raised within their local business risk-assessments by way of appropriate proactive mitigation and control measures. Applicants asked to provide a copy of their local business risk-assessment as part of their application.

2.6 Each application will then be considered having regard to the following matters (section 49 of the draft policy):

- The type of premises
- The location of the premises
- The hours of operation
- The configuration and layout of the premises
- The levels and types of crime in the local area
- The levels of deprivation in the local area
- The extent to which the business risk-assessment provided by the applicant deals with the concerns raised under the local area profile
- Matters relating to children and young people
- Matters relating to vulnerable adults
- The adequacy of control measures proposed
- Whether the application proposes high levels of management
- The compliance history of the premises management, where relevant
- The views of the responsible authorities
- The views of interested parties

2.7 A number of areas of considerations are dealt with in more detail within the policy. Some of the most important issues dealt with in further detail include (with relevant sections of the draft policy document noted):

- Standards of management (sections 81-85)
- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime (sections 86 – 91)
- Protecting children (sections 94 – 99)
- Protecting vulnerable adults (sections 100 – 104)
- Location (sections 105 – 106)
- Access by children and young people (sections 107 – 108)
- Challenge 25 (section 109)
- Restrictions on advertising (sections 110 – 112)
- Bingo premises (sections 114 – 116)
- Betting premises (and Fixed Odds Betting Terminals (sections 117 – 124)
- Adult gaming centres (sections 128 – 131)

2.8 Beyond all of this, this draft revision also looks to ensure that the policy is consistent with current legislation and the latest Gambling Commission Guidance to Local Licensing Authorities (5th Edition September 2015). A number of updates are included for the purposes of consistency. These include latest guidance from the Commission on matters such as

- Definition of premises and split premises
- Multi-activity premises
- Provisional statements

3. Options Appraisal

3.1 This report seeks authority to take the draft policy out to public consultation. The final version of the policy will be subject of a further report in due course. All options for consideration will be detailed at that time.

4. Consultation

Consultation process

4.1 The draft revision must be subject of public consultation, to be carried out in accordance with the provisions of the Act. It is proposed that a full period of public consultation of 12 weeks should be allowed.

4.2 The consultation will have a number of aims, including establishing

- The level of support within the local community for the Council's proposals
- Whether the draft policy supports good responsible premises management
- Whether there are additional relevant data sets that would further improve the analysis supporting the draft policy
- Whether the draft policy can be improved by inclusion of further industry best practice

4.3 Consultation arrangements are currently under development. However, it is proposed that the consultation should comprise:

- Publication of the draft revised policy on the Council's web site, together with an electronic questionnaire
- A public notice announcing the consultation in a local newspaper
- Direct letter drops to current licence holders; other stakeholders; trade and local community representatives, intended to raise awareness around the consultation and direct interested parties to the online information or provide details where hard copies can be obtained
- Awareness raising in GP surgeries, health centres and similar facilities
- Consultation with the Licensing & Regulatory Board
- Further discussions with partner services and agencies
- Promotion of the consultation through the borough newsletter
- Promotion through social media
- Public meetings including voluntary and community sector meetings.

4.4 Post consultation, all responses received would be taken into consideration in the preparation of the final draft policy.

Timetable

- 4.5 Subject to cabinet approval the policy will go out to public consultation. This would allow consultation to take place through May-July 2017. Following the consultation all responses received will be considered and appropriate amendments to the policy made.
- 4.6 The final policy will require the approval of both Cabinet and full Council Assembly before it is formally adopted. This is tentatively scheduled for Autumn 2017.
- 4.7 At the time of writing this report, the findings of a recent Department of Culture Media and Sport (DCMS) Call for Evidence around gaming machine provision are awaited. It is hoped that the outcome might provide more local discretion to limit numbers of gaming machines and stakes and that, in future, further scope for discretion will be offered.

5. Legal Implications

Implications completed by Dr Paul Feild, Senior Corporate Governance Lawyer

- 5.1 Section 349 of the Gambling Act 2005 requires the Licensing Authority to prepare and publish a Statement of Gambling Licensing Policy every 3 years. Section 25 of the Gambling Act 2005 requires the Authority to have regard to the Gambling Commission's Guidance when preparing its Policy.
- 5.2 Any other legal implications relating to the Statement of Gambling Licensing Policy are detailed within the 2005 Act.

6. Financial Implications

Implications completed by Katherine Heffernan, Group Manager

- 6.1 The resources devoted to the preparation of the policy are contained within the Regulatory Services budget.
- 6.2 Fees associated with this policy are reviewed and agreed by Cabinet as part of the council's standard annual Fees and Charges review process

7. Other Implications

- 7.1 **Risk Management** – This review of the Council's gambling licensing policy fulfils the requirement under the Gambling Act 2005 for the Council to have and regularly review and update a statement of policy.
- 7.2 **Corporate Policy and Customer Impact** – The draft policy is intended to promote the four statutory licensing objectives. It attempts to do so in a way that acknowledges and supports the broader Council vision and priorities. The revised policy is subject of an ongoing Equalities Impact Assessment which will be further informed by the consultation responses.

- 7.3 **Safeguarding Children** - The third licensing objective specifically deals with the protection of children. As such, the policy includes detailed best practice management advice around child protection issues, compiled in conjunction with expert responsible authorities. This deals with issues such as age-verification and advertising. Child Protection are a statutory responsible authority under the Act and are consulted on all new and varied premises licence applications.
- 7.4 **Health Issues** - Although public health is not a licensing objective, the draft policy recognises the potential impacts of gambling related harm and is intended to provide adequate protections to vulnerable persons. The draft policy promotes socially responsible premises management. Public Health are a statutory responsible authority under the Act and are thereby consulted on all new and varied premises licence applications.
- 7.5 **Crime and Disorder Issues** - The first licensing objective specifically deals with the prevention of crime and disorder. As such, the draft policy considers issues such as location and local levels of crime. The development of the revised policy is being carried out in conjunction with expert responsible authorities.
- 7.6 **Property / Asset Issues** - None directly, any licensable gaming or betting activity provided on Council run venues would be subject to the same controls as other commercially run venues or facilities.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix A:** Draft Barking and Dagenham Statement of Licensing Policy for 2017-2020