

CABINET

16 July 2019

Title: Adoption of Gambling Licensing Policy 2019 – 2022	
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: Andy Opie, Operational Director of Enforcement	
Accountable Strategic Leadership Director: Fiona Taylor, Director of Law and Governance and HR	
Summary <p>The Council, as the 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. Once established, the Council's policy may be reviewed at any time but must be reviewed in accordance with a statutory three-year cycle. All changes to the policy must be subject to a public consultation.</p> <p>The Council first published a gambling licensing policy in 2007 and as the Gambling Act 2005 dictates that it must be reviewed every three years, a further review is now due in order to keep the Council's policy in line with the statutory review cycle. The reason for a statutory review period of the statement of licensing policy is to ensure it remains relevant and reflects changes in gambling activity.</p> <p>The Council's Statement of Gambling Licensing Policy was the subject of a full detailed mid-term review in 2017, which intended to refresh the Council's position on gambling licensing and ensure consistency with all relevant statute, codes and guidance.</p> <p>Given that the policy was only the subject of a full review in 2017, only minimal changes are proposed. These are considered necessary in order to reflect the latest developments in gambling licensing. This report details each of the revisions and provides a copy of the draft revised Barking and Dagenham Statement of Gambling Licensing Policy for the period 2019- 2022, for consideration at Appendix A.</p> <p>The 2017 Statement of Gambling Policy has been made to reflect the changes in stakes for category B2 machines that came into effect in April this year, and other two additions have been made, one to reflect best practice as recommended by the Gambling Commission in relation to the content of plans submitted with new applications, and the other advice to those completing risk assessments for submission with applications.</p>	

Recommendation(s)

The Cabinet is asked to recommend the Assembly to adopt the revised Statement of Gambling Licensing Policy 2019-2022, as set out in Appendix A of the report.

Reason(s)

To ensure that the Council's Statement of Gambling Policy complies with section 349 of the Gambling Act 2005 to review and publish the revised gambling licensing policy every three years.

1. Introduction and Background

- 1.1 The Gambling Act 2005 ('the Act') established the national licensing regime for gaming and betting (except 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 The statement of policy aims to set out how the licensing authority intends to approach its licensing responsibilities under the Act.
- 1.4 In carrying out its licensing functions, the Authority is directed by s153 of the Act to, in so far as it thinks fit, aim to permit the use of premises for gambling:
 1. In accordance with any code of practice issued by the Gambling Commission;
 2. In accordance with any relevant guidance issued by the Gambling Commission;
 3. In a manner which is consistent with the licensing objectives; and
 4. In accordance with the licensing authority's own statement of policy.
- 1.5 The three licensing objectives stated in the Act are set out below. Local licensing authorities are mainly concerned with the first and third objectives:
 - 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; and
 - Protecting children and vulnerable people from harm or from being exploited by gambling.
- 1.6 This report details the proposed revisions to the policy and the reasons why these changes are being made. It also explains the consultation process.

2. Proposal and Issues

The current Barking and Dagenham Statement of Gambling Licensing Policy 2019-2022

- 2.1 At the time of the previous revision of the policy, many local licensing authorities, including this Authority, had held long standing concerns over the directed and

restricted nature of the gambling licensing regime. It was believed that this directed approach had prevented licensing decisions from properly addressing local circumstances and that this, in turn, had 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 category B £500 jackpot Fixed Odds Betting Terminals (FOBTs);
- The perceived concentration of betting shops in high street locations in more deprived areas;
- Concern that vulnerable people were being targeted and exploited; and
- Concern that children were being regularly exposed to gambling and gambling becoming 'normalised'.

2.2 As a result of this situation, an analysis of the impacts of gambling related harm within the Borough was conducted using spatial analysis techniques drawing on published, relevant and reliable socio-economic, public health and anti-social behavior data sets. The analysis was used to develop a 'local area profile' i.e. a model of local area vulnerability to gambling related harm which now supports and informs the Council's policy. The analysis can be accessed via: <https://www.lbbd.gov.uk/sites/default/files/attachments/Gambling-related-harm-risk-assessment.pdf>

2.3 In the light of the findings of the analysis, the existing policy made a number of important statements:

- 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; and
- That operators are asked not to consider locating new premises or relocating existing premises within such areas.

2.4 The existing policy goes on to set out in some detail the considerations this Council would have when determining applications for licensed gambling premises and to detail the types of management controls the Council may expect to see in place at such establishments.

2.5 It remains the case that each application is required by law to be considered upon its own merits and so the 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.

The draft revised Barking and Dagenham Statement of Gambling Policy 2019 – 2022

2.6 A copy of the draft revised Barking and Dagenham Statement of Gambling Licensing Policy for 2019-2022 is attached at Appendix A. Four new paragraphs have been added to the policy. These are detailed from paragraph 2.10 onwards. Two additions relate to the forthcoming changes to stakes in B2 machines, they are as follows:

Changes to the controls over category B2 machines

- 2.7 Since the last policy was drafted and adopted, the Government has announced that the maximum stake permissible in category B2 machines (FOBTs) would reduce from £100 to £2. This was implemented from April 2019. These machines can only be located within betting shops and are restricted to a maximum number of four per shop. The future implications of this change on the number and clustering of betting shops are as yet unclear, but it is considered important to acknowledge this in the policy. Industry estimates suggest that it is likely, over a period to result in a reduction of the number of betting shops, especially in areas where ‘clustering’ has been experienced. It may be that reductions will not be experienced until current leases are due for renewal.

As a result, two changes to the policy are proposed as follows:

1. Executive summary – ninth paragraph, page 4 – The following text is added:
“This authority recognises that the significant reduction in maximum stakes for category B2 machines from April 2019 may increase the potential for significant changes to occur during the life of this policy.”
2. Section 119, page 32 – The following paragraph is added:
“It is recognised that from April 2019 the maximum stake of category B2 machines (fixed odds betting terminals) was reduced from £100 to £2. A re-assessment of the risks posed by gaming machines is likely to be appropriate for future iterations of this policy, but it is not appropriate at the current time as the full implications of this change are unclear in advance of the implementation of the change.”

Preparation of individual premises risk-assessments

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

Experience has shown that staff working in gambling premises often have significant insight into the local area where they work and their input to the risk-assessment process can add significant value to the process. It is therefore being recommended as part of this review that they are involved in local risk assessments:

Section 43, page 16 – the following paragraph has been added:
“It is recommended that those preparing the local risk assessment seek the views of staff working in the premises. They may well possess knowledge based on their daily presence in the locality and may also be local residents with detailed local knowledge. Experience shows that shop staff, when asked to read the completed risk-assessment often do not recognise the description of the area portrayed within the risk-assessment.”

Premises plans submitted as part of the application process

- 2.9 The Gambling Commission, in their published guidance for local licensing authorities, (S.7.44 – 7.47) recommend a higher level of detail be shown on premises plans submitted as part of the new licence application process, in order to help ensure appropriate supervision of premises.

Section 58, page 20 – a new paragraph is added

“Notwithstanding the requirements of The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007, relating to the content of submitted plans, this authority believes that in order to be satisfied that the requirements of S.153 are being met, especially social responsibility codes, more detail is required, with the locations of gaming machines and self-service betting terminals marked on the plan. This view is supported in the national guidance issued by the Gambling Commission (S.7.44). Accordingly, for any new premises licence application or variation application this level of detail will be required. Any plan submitted without this information will be returned to be corrected, thus potentially delaying the issue of any licence.”

3. Consultation

- 3.1 The revised draft policy was subject to a public consultation exercise for six weeks between 27 May and 5 July 2019. Details were sent to representative groups of the Gambling industry and all gambling premises in the borough. The revised policy was also presented to the Licensing and Regulatory Committee on 1 May 2019 and it was agreed to proceed with public consultation. At the time of preparation of this report two responses had been received, one from a trade body and one from an individual betting operator. Neither had any comments about the proposed changes, as set out in this report. Any further responses received will be presented with this report.

4. Financial Implications

Implications completed by Katherine Heffernan, Head of Service Finance

- 4.1 There are no financial implications arising directly from this report.

5. Legal Implications

Implications completed by Dr Paul Field, Senior Corporate Governance Lawyer

- 5.1 The legal implication of the revised Gambling Licensing Policy is set out in the body of this report.

Public Background Papers Used in the Preparation of the Report:

Gambling Commission Guidance to licensing authorities, 5th edition, revised September 2016

List of appendices:

Appendix A – Draft Statement of Gambling Licensing Policy 2019 – 2022