

LICENSING AND REGULATORY BOARD

26 July 2017

Title: Gambling Act 2005 – Draft Barking and Dagenham Statement of Gambling Licensing Policy 2017 – 2020 – Public Consultation	
Report of the Operational Director, Enforcement Services	
Open Report	For Information
Wards Affected: None	Key Decision: No
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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>On 25 April 2017, the Cabinet approved a draft revised Barking and Dagenham Statement of Gambling Licensing Policy for the period 2017-2020, for the purpose of formal public consultation. The public consultation commenced on Monday 19 June 2017.</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>	
Recommendation(s) <p>The Licensing and Regulatory Board is asked to:</p> <p>(i) Note the content of the Draft Barking and Dagenham Statement of Gambling</p>	

- Licensing Policy for 2017-2020;
- (ii) Note the process for review of the policy; and
 - (iii) Consider whether it wishes to make any formal response to the current consultation.

Reason(s)

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 it:
 - 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; and
- 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.

1.10. A draft revision of the Barking and Dagenham statement of gambling licensing policy has been prepared. In recognition of the recent changes made to the Commission's Social Responsibility Code, the draft revision has been supported and informed through the development of a model of local area based vulnerability to gambling related harm (a 'Gambling Related Harm Risk Index'). 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.

1.11. The draft revised policy statement was considered by the Cabinet on 25 April 2017 and approved for the purpose of public consultation. The consultation process was subject of short delay due to the 'purdah' period around the general election. Public consultation commenced, however, on 19 June 2017 and runs through to 8 September 2017.

1.12. The Board is asked to note the content of the draft policy and of the arrangements for public consultation and to consider whether to make any formal response to the consultation.

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

2.1. A copy of the draft revised policy is provided for information at Appendix A to this document. An online copy of the document and of the supporting 'Gambling Related Harm Risk Index' can be found using the link provided http://consult.lbbd.gov.uk/public/environment/licensing/gambling_licensing_policy

Licensing determinations

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

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

2.4. 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.

2.5. 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; and
- The views of interested parties.

2.6. 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); and
- Adult gaming centres (sections 128 – 131).

2.7. 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; and
- Provisional statements.

3. Consultation Process

3.1. The draft revision must be subject of public consultation, to be carried out in accordance with the provisions of the Act. As has been noted the policy commenced on 19 June 2017 and runs for 12 weeks through to 8 September 2017.

3.2. The consultation has a number of aims, including establishing;

- The level of concern within the local community over the current local gambling facility and gaming machine offer;
- The level of support within the local community for the approach proposed by the draft policy;
- Whether the draft policy and supporting analysis provide sufficient information for the trades to develop effective local operating risk-assessments;
- 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; and
- Whether the controls proposed within the draft policy can be improved by inclusion of further industry best practice.

3.3. Central to the public consultation is an online questionnaire, compiled for ease of public use, which can be found using the link provided in Section 4.1. of this report. More detailed submissions are welcomed from any party, however, and are requested from all partner agencies and trade representatives.

3.4. The consultation is being promoted by way of:

- A press release;
- A public notice in the borough newsletter;
- Flyers distributed at key locations in the borough;
- Use of social media;
- Direct letter drops, intended to raise awareness around the consultation and direct interested parties to the online consultation or to provide detailed responses, as appropriate, to:
 - All current licence holders;
 - Trade and industry representatives;
 - Local community and relevant voluntary sector representatives; and
 - Ward councillors.
- Direct consultation with:
 - Responsible authorities;
 - Other partner services and agencies; and
 - Other relevant interested parties.
- Notices placed in GP surgeries, health centres and similar;
- Consultation with the Licensing & Regulatory Board; and
- Promotion at relevant voluntary and community sector meetings.

6. Timetable

- 6.1. Following the consultation all responses received will be considered and appropriate amendments to the policy made.
- 6.2. 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.
- 6.3. Note: As this consultation proceeds the findings of a recent Department of Culture Media and Sport (DCMS) Call for Evidence around gaming machine provision are awaited. The response has been the subject of some delay and 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. The final revision of the policy will have regard to any changes in the situation announced.

7. Legal Implications

Implications completed by Dr Paul Feild, Senior Corporate Governance Lawyer

- 7.1. 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.
- 7.2. Any other legal implications relating to the Statement of Gambling Licensing Policy are detailed within the 2005 Act.

8. Financial Implications

Implication completed by Katherine Heffernan, Group Manager

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

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

List of appendices:

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