

LICENSING AND REGULATORY COMMITTEE

31 January 2023

Title: Gambling Act 2005: Draft Policy Statement 2023 – 2026 post Public Consultation	
Report of the Operational Director of Enforcement, Regulatory Services and Community Safety	
Open Report	For Information
Wards Affected: All	Key Decision: No
Report Author: Karen Collier, Service Manager Environmental Health & Public Protection	Contact Details: E-mail: karen.collier@lbbd.gov.uk
Accountable Director: Gary Jones, Operational Director, Enforcement, Regulatory Services and Community Safety	
Accountable Strategic Leadership Director: Alison Stuart, Chief Legal Officer and Interim Monitoring Officer	
Summary 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. A period of formal consultation has been undertaken in respect of the draft Gambling Policy Statement that was considered by the Licensing and Regulatory Committee on 3 October 2022. This report sets out the representations received from consultees for further consideration which has resulted in minor clarification amendments to the draft policy statement, with a view to agreeing a revised Gambling Policy Statement that may be reported to Cabinet and then Assembly for final approval.	
Recommendation(s) That the Licensing and Regulatory Committee: (i) Considers the consultation feedback in Appendix 1, which was received following the formal consultation on the draft Gambling Policy Statement, and the officers’ comments in Appendix 2, in response to the consultation feedback; (ii) Notes the minor clarification amendments proposed in the draft Gambling Policy Statement as set out in Appendix 2 and 3; (iii) Recommends to Cabinet that it considers the report and then recommends to Assembly that the draft Gambling Policy Statement is adopted and published and advertised by the Environmental Health & Public Protection Service Manager in accordance with the provisions of the Act; and	

- (iv) Notes that the policy statement will take effect from the date the final draft of it is agreed by Assembly.

Reason(s)

The Council is required by law to have a statement of gambling policy. The policy is intended to promote the licensing objectives stated in the Gambling Act and is linked to each of the Council's corporate priorities.

1. Introduction and Background

- 1.1 Under the Gambling Act 2005, the Council is the licensing authority and is responsible for licensing and overseeing local gambling establishments. Part of this responsibility is the duty to prepare and publish a statement of the principles (policy statement) that the Council proposes to apply in exercising its functions under the Act.
- 1.2 The Council's current Gambling Act policy statement came into effect on the 24 July 2019 and was effective for three years.
- 1.3 There are legally prescribed procedures that the Council must follow before the policy statement can take effect. This involves making the statement publicly available by a variety of means for a proportionate amount of time and by advertising that it has been published. The policy statement must be adopted by the Assembly.
- 1.4 The formal consultation was publicised through the 'One Borough Voice' pages of the Council's website. In addition, direct emails and letters, providing a link to the Council's web page consultation, were sent to key stakeholders.
- 1.5 Appendix B of the draft Gambling Policy Statement includes a list of the stakeholders that were consulted.

2. Proposal and Issues

- 2.1 The representations received during the formal consultation period are produced at Appendix 1. Appendix 2 also sets out the officer response to the representations, including any changes made to the policy statement and, where relevant, the reasons why changes have not been made. There were no fundamental or significant amendments as a result of the representations made; the changes made were simply to provide greater clarification on specific matters across the policy statement.
- 2.2 This report seeks consideration and comment on the draft revised LBBB policy following public consultation. The draft version of the policy will be reported to Cabinet and then Assembly for final approval.

4. Consultation

- 4.1 The Gambling Act 2005 requires the Council to consult and this has been undertaken widely with key stakeholders. The full list of stakeholders consulted can be found in Appendix B of the draft Gambling Policy Statement.
- 4.2 Formal consultation, as endorsed by the Corporate Strategy Group at its meeting on 15 September 2022, was undertaken between 26 October 2022 until 30 December 2022, which provided an opportunity, in particular, for the following stakeholders to provide feedback:
- Responsible authorities
 - Service providers and 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
 - Ward councillors
 - Local licensed operators and relevant trades representative groups
 - Publication on the authority's website

5. Financial Implications

Implications completed by: Afzal Hussain, Senior Accountant

- 5.1 This report seeks approval for minor clarification amendments to the draft policy statement, with a view to agreeing a revised Gambling Policy Statement.
- 5.2 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.
- 5.3 There is no financial impact of this proposal.

6. Legal Implications

Implications completed by: Dr Paul Feild Principal Governance & Standards Lawyer

- 6.1 As set out in the report, the Council as a Gambling Licensing Authority is required by law to have a Gaming Policy which must be reviewed on a periodic basis. There is Statutory Guidance to Licensing Authorities on how the policy is developed set out in part 6 of the Guidance. As part of the process there must be consultation and due regard be given to any representation as set out in paragraphs 6.56 – 61 of said Guidance.
- 6.2 In determining its policy statement, the Licensing Authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give, the factors to be taken into account include:
- who is making the representations, the nature of their interest and their expertise
 - relevance of the factors to the licensing objectives
 - how many other people have expressed the same or similar views
 - how far the representations relate to matters that the licensing authority should be including in its policy statement.

6.3 The final adoption of the Policy is an Assembly function.

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. If the Council fails to prepare and publish the policy statement the Council may be challenged when exercising its functions under the Act through a number of routes, e.g. service complaints to the Local Government Ombudsman and judicial review. Conversely, by preparing and publishing the policy statement, the Council is complying with its legal obligation. In addition, the Council provides a defined framework within which to exercise its functions and makes it clear to all stakeholders how the Council intends to exercise its functions.

7.4 **Corporate Policy and Equality Impact** – The draft revised policy is intended to promote the statutory licensing objectives. It attempts to do so in a way that acknowledges and supports the broader Council vision and priorities.

7.4.1 This revision of LBBD's Gambling Policy Statement and the subsequent public consultation will support the corporate strategic priorities of "Participation and Engagement" and "Well-run organization". The Policy intends to support responsible operators and sets out to offer protections to our local community. This supports the corporate strategic priorities of "Inclusive Growth" and "Prevention, Independence and resilience".

7.4.2 Equality impacts have been considered in the revision of this policy. An Equality Impact Assessment screening tool has been completed and submitted to the Strategy and Participation Team who have confirmed that the draft revised Gambling Policy Statement does not require a full Equality Impact Assessment.

7.4.3 The equalities impact was further reviewed and considered following the consultation responses. Consultation feedback referred to the need to protect children and vulnerable adults from gambling related harm. The Equality Impact Assessment screening tool has been updated to clarify the specific consultation period.

7.4.4 The groupings for whom there will be direct impacts, and with whom there will continue to be efforts made to ensure that impacts are kept under review, are as follows:

- Age, in relation to children and young people;
- Disability, in relation to vulnerable adults; and
- Social Inclusion, in relation to the above plus those whom we may describe as vulnerable.

It continues to be the case that, across all nine national Protected Characteristic groupings and our tenth grouping in Barking & Dagenham of social inclusion, based on feedback from the formal consultation, the impact is predicted to be 'low positive'.

7.4.5 A copy of the Equality Impact Assessment screening tool can be found in Appendix 4.

- 7.5 **Safeguarding Adults and 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. The revised policy statement also continues to emphasise the Council's focus on protecting adults with care and support needs.
- 7.6 **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.
- 7.7 **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.
- 7.8 **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:

- [London Borough of Barking and Dagenham Statement of Gambling Policy](#) (effective 24 July 2019)
- [Gambling Act 2005 Draft Statement of Gambling Licensing Policy 2022 2025 for Public Consultation.pdf](#) (lbbd.gov.uk)

List of appendices:

- **Appendix 1:** Consultation Feedback
- **Appendix 2:** Officer response to consultation feedback
- **Appendix 3:** Draft revised London Borough of Barking & Dagenham Gambling Policy Statement 2023- 2026 (Post Consultation Version)
- **Appendix 4:** Equalities Impact Assessment Screening Tool