

Report for: Regulatory Committee to consider and comment if appropriate on the revised Statement of Gambling Policy under the Gambling Act 2005 - 20th November 2018

Title: Consultation on draft revised Statement of Gambling Policy.

Report authorised by : Stephen McDonnell, Director for Environment and Neighbourhoods

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Ward(s) affected: 'All'

**Report for Key/
Non Key Decision: Key decision**

1. Describe the issue under consideration

- 1.1 It is a requirement to review the Council's Statement of Gambling Policy every three years. The current policy was adopted in January 2016 and is therefore due for review this year, to be published in March 2019. This report seeks comment from the Regulatory Committee on the attached draft policy that is currently under public consultation. In order to comply with Section 349 of the Gambling Act 2005 the authority needs to have consulted upon and adopted a Statement of Gambling Policy.
- 1.2 The draft revised policy and the Local Area Profile Supplementary document establishes that the Council has serious concerns of the impact from on street gambling premises particularly those in the most vulnerable and 'at risk' areas of the borough. The Council considers that it is necessary to seek to control the number of facilities for gambling in areas where its most vulnerable residents may be placed at increasing risk, and in line with the duty, to aim to permit gambling insofar as it is reasonably consistent with the pursuit of the licensing objectives.
- 1.3 All areas shown within the local area profile as being at high overall risk of gambling related harm, are generally considered inappropriate for further gambling establishments, which could potentially raise the risk of gambling related harm to vulnerable people living in those areas. Operators are asked to consider very carefully whether seeking to locate new premises or relocating existing premises within these areas would be consistent with the licensing objectives and the local risks identified.

2. Cabinet Member Introduction

- 2.1 The Council has a duty to consult on the proposed policy and officers are seeking approval to conduct the consultation and I am pleased to bring forward this document.

Following consultation, a further report will be presented to the Cabinet on 22nd January 2019 with the results of the consultation and seeking approval to the draft Statement of Gambling Policy at Full Council in February 2019.

Given the impact on our communities of on street gambling premises, especially in areas defined 'at risk' and 'vulnerable' it is timely that this consultation asks gambling operators to consider carefully where they are located, and to ensure they are consistent with the licensing objectives.

3. Recommendations

That the Regulatory Committee:

- 3.1 Review the draft Statement of Gambling Policy and provide any comments on the policy for recommendation onto the Cabinet and then Full Council for adoption.

4. Reasons for decision

- 4.1 To comply with the requirements of the Gambling Act 2005 the Council must prepare and consult on a statement of gambling policy for the period 2019-2022.
- 4.2 The purpose of the policy is to define how the responsibilities under the Act are going to be exercised and administered.
- 4.3 To obtain the views of interested parties on the proposed statement of gambling policy and use these views to formulate any changes to the policy.

5. Alternative options considered

- 5.1 No alternatives were considered. It is a statutory requirement that the policy be reviewed at least every three years, and that a public consultation is carried out. If the Council did not have a policy it would be acting ultra vires with regards to any decisions it makes when determining gambling premises licences.
- 5.2 The Gambling Commission has laid down requirements which the council must follow with regards to the Gambling Policy. If they are not followed the Council could face risk of judicial challenge. The Gambling Commission guidance has been followed in drafting this revised policy.

6. Background information

- 6.1 The Council is the licensing authority for the purposes of the Act and is required to prepare a Statement of Gambling Policy that it proposes to apply in exercising its functions under the Act.
- 6.2 The policy sets out the general approach the Council will take when carrying out its regulatory role under the Act and promoting the three licensing objectives.
 - 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.
- 6.3 Local licensing authorities have had ongoing concerns that, due to the “aim to permit” direction, insufficient consideration has been given to local context and circumstance within licensing decisions. This has led to: -
- concerns within local licensing authorities over lack of discretion;
 - an increase in betting shops in high street locations in the most deprived areas;
 - the increase in betting shop numbers has been driven by their ability to install up to 4 Fixed Odds Betting Terminals;
 - concerns that vulnerable people are being targeted or and exploited; and
 - concerns that children are being exposed to gambling and becoming normalised to gambling.
- 6.4 The Act was designed to be ‘light touch’ legislation covering a wide range of licensable activities such as betting premises, track betting and adult gaming centres as well as casinos.
- 6.5 In 2016, the Gambling Commission made some key changes to the standard Licence Conditions and Codes of Practice (LCCP) with which all licensed Operators must comply with under their Operators’ Licence. The Social Responsibility Code, which forms part of the LCCP, now requires prospective and current operators to have regard within their business operating risk-assessments to local risks including any set out in the local authority statement of policy. This has provided an opportunity for local issues to be considered within licence application determinations.
- 6.6 The Act specifies that Local authorities should ‘aim to permit’ gambling, provided it is in accordance with the Code of Practice and guidance issued by the Gambling Commission (GC), reasonably consistent with the licensing objectives and in accordance with the Statement of Gambling Policy. The effect of this duty is that Licensing Authorities must approach their functions in a way that seeks to regulate gambling by using powers to promote the licensing objectives rather than by starting to restrict them from the outset.

7. Proposed changes

- 7.1 There are a number of changes and amendments to the policy that are highlighted in the draft document. The changes reflect the update in the Guidance published by the Gambling Commission Guidance published by the Gambling Commission. The draft policy is attached at Appendix 1 and the Local Area Profile Guidance at Appendix 2.
- 7.2 There are no changes to the direction or intent of the policy, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision-making.
- 7.3 The draft policy includes a Local area profile as encouraged by the latest GC guidance. It recommends improvement to the approach to gambling licensing and regulation by:
- Increased focus on risk and regulation

- Increased attention to local area risk
 - Encourage partnership and collaboration between stakeholders to mitigate risks.
- 7.4 All industry operators have had to undertake local area risk assessments to explore what risks their gambling establishments pose to the licensing objectives, including the protection of young and vulnerable people. The Local Area Profile, acts as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments.
- 7.5 The policy statement now includes a separate attachment on the Council's expectations around operators' local risk assessments. This will enable the Council to regulate local gambling more effectively by being able to hold operators to account if their assessments fall short of the Council's expectations.
- 7.6 The updated policy includes a revised format of the policy document and changes are as follows:
- Foreword - New Lead Member commentary
 - New index page
 - Section 1. Updates introduction to the document / Address updated
 - Section 2 -Consultation updated section
 - Section 3 & 10 - Objectives updated section
 - Section 7 – Update for information sharing
 - Section 8-9– Gambling Prevalence
 - Section 16 – Application of the social responsibility codes
 - Section 17 – Location/ Local area risk assessments
 - Section 19– Conditions
 - Part E – Enforcement and Reviews
 - Supplementary document – Graphs and background information on local area profile across the borough
- 7.7 The policy will be subject to consultation with stakeholders, with any comments received on the draft presented to Cabinet in February 2019.

8. Consultation

- 8.1 Consultation is required to ensure any changes to the Statement of Gambling Policy are clear and transparent for businesses, responsible authorities and the public.
- 8.2 The Gambling Act 2005 contains details of the consultees that must be consulted as part of the review of the policy. These are:
- The Chief Officer of Police for the authority's area;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - One of 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.
 - Publicise the consultation on the Council's website

- All the Responsible Authorities

8.3 Additionally the following will be included in the consultation:

- Holders of licences issued under the Gambling Act 2005;
- Trade Associations representing the gambling industry;
- Haringey Social Services;
- Haringey Public Health Directorate;
- Residents Associations.

8.4 We will then analyse the comments, prepare any changes considered appropriate to the draft policy for final approval and present a further report to the Cabinet in January 2019 for recommendation to adopt to Full Council in February 2019.

8.5 Timeline and adoption route:

Draft document discussed with AD	October 2018
Brief to Corporate Board if required	11 th October 2018
Report taken to Cabinet to seek sign off on approval to start consultation.	13 th November 2019 (subject to 5 working days Call-in)
Consultation started – 6 weeks	19 th November 2018
Report taken to Regulatory Services/Cabinet and Overview and Scrutiny for noting and making comments that will be taken to Cabinet.	Regulatory 20 th November 2018 O&S 19 th November
10 weeks Consultation ends	28 th January 2019
Brief to Corporate Board (if required)	January 2019
Report to Cabinet with outcome of consultation and final version to ask for recommendation to Full Council to adopt	12 th February 2019
Report to Full Council for adoption	18 th March 2019
4 weeks public notice period.	March - April 2019

9. Contribution to strategic outcomes

9.1 The Gambling Act Statement of Licensing policy 2019-2022 will contribute to our fundamental themes and priorities as follows:

Priority 3 of the Corporate Plan - A clean, well maintained and safe borough
Where people are proud to live and work.

9.2 Objective 1 - Strengthening Communities and partnerships to improve our environment and reduce crime, enabling residents and traders to feel safe and proud of where they live. This will be delivered by effectively working with community networks, such as traders and residents associations and working in partnership with police colleagues. For gambling premises this may be achieved

through better CCTV provisions, operating a local Bet Watch Scheme for the trade.

- 9.3 Objective 2 – To make our streets, parks and estates, clean, well maintained and safe. Gambling premises would be visited to ensure that they had waste contracts and were disposing of their rubbish via suitable arrangements.
- 9.4 Objective 4- To prevent and reduce violence against women and girls (VAWG). This will be delivered by raising awareness with the boroughs licence holders of the issues and scale of VAWG.
- 9.5 Objective 5 – To work with partners to prevent and reduce more serious crime, in particular youth crime and gang activity. This will be delivered by working in partnership with police colleagues, schools and residents and businesses.
- 9.6 The policy balances the right of an applicant to make an application under the Act and to have the application considered on its merits, against the right of any person to make representation on an application to seek a review of an existing licence.
- 9.7 The above Priorities and objectives are underpinned by a number of cross – cutting principles, namely;
- Prevention and early intervention – preventing poor outcomes for young people and intervening early when help and support is needed.
 - A fair and equal borough – tackling the barriers facing the most disadvantaged and enabling them to reach their potential;
 - Working together with our communities – building resilient communities where people are able to help themselves and support each other.
 - Value for Money – achieving the best outcome from the investment made;
 - Customer focus – placing our customers’ needs at the centre of what we do;
 - Working in partnership – delivering with and through others.
- 9.8 A balance will ensure that gambling operators are provided with a framework within which to operate, while providing assurance to the public and protecting children and vulnerable people.

10 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

- 10.1 The Assistant Director of Corporate Governance has been consulted in the preparation of this report and comments as follows.
- 10.2 In accordance with section 349 of the Gambling Act 2005 the Council, as licensing authority, is required at least every 3 years to prepare and publish its Statement of Gambling Policy. In preparing its statement the Council is statutorily required to consult with the consultees listed at paragraph 8.2 of this report and it is also good practice to consult those bodies listed at paragraph 8.3.
- 10.3 Members will be aware that in carrying out its consultations, the Council must adhere to the so called 'Sedley principles'. These are :

- (1) That consultation must be at a time when proposals are still at a formative stage;
- (2) That the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
- (3) That adequate time must be given for consideration and response; and
- (4) That the product of consultation must be conscientiously taken into account in finalising the policy.

11. Finance

11.1 The cost of the public consultation on the draft new Statement of Gambling Policy will be met from existing budgets. There are no other financial implications.

12. Procurement

12.1 There are no procurement related issues in relation to the content of this report.

13 Equality

13.1 The Council has a public sector equality duty under the Equality Act (2010) to have due regard to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who share those characteristics and people who do not.

13.2 When framing its policy on the licensing of gambling premises, the Council must work within the statutory parameters of the Gambling Act, which includes a general 'aim to permit'.

13.3 The Council is required to review its gambling policy every three years. The policy was last adopted in 2016, where an Equality Impact Assessment (EqIA) was completed. The Cabinet Report and EqIA can be found on the Council's website.

13.4 The current policy seeks to mitigate known inequalities, detailed in the 2016 Equality Impact Assessment. The impacts on individuals and groups with protected characteristics have not fundamentally changed as the policy has not changed.

13.5 As part of the process to review and re-adopt the gambling policy, the Council will go out to public consultation and seek feedback from residents. The Council will include a Local Area Profile in the package of documents available to the public

to assist the consultation. The Local Area Profile will sit alongside the policy and will strengthen the risk assessments completed by betting operators. Any feedback from consultees, where appropriate, will feed into the final report taken to the Council post-consultation.

14. Planning Powers

14.1 Boroughs have planning powers to control the uses of the high street shops through the Use Classes Order. However, permitted development rights limit a borough's powers in many respects.

14.2 Under the Use Classes Order, betting shops fall within the A2 use class. The A2 use class also includes banks, building societies, bureau de change, professional services, estate agents and employment agencies. Changes between uses in the A2 use class do not require planning permission.

14.3 The General Permitted Development Order allows a change of use from restaurants and cafes (Use Class A3), drinking establishments (Use Class A4) and hot food takeaways (Use Class A5) to a use in the A2 use class without requiring planning permission.

14.4 Therefore, new betting shops may readily be established in a high street without any additional planning consent being necessary.

14.5. The Gambling Act does not allow for the Licensing Authority to have regard to whether or not a proposal by an applicant is likely to be permitted developments rights and requiring a planning application to be made.

15. Use of Appendices

Appendix 1 - Haringey Draft Statement of Licensing Policy for the Gambling Act 2019-2022.

Appendix 2 – Local Area Profile

16 Local Government (Access to Information) Act 1985

Gambling Commission Guidance for Licensing Authorities 5th Edition

Gambling Commission Licensing Conditions and Codes of Practice October 2017