

Report for: Overview and Scrutiny Committee – 6 July 2021

Title: Consultation on draft Statement of Gambling Policy

Report authorised by: Stephen McDonnell, Director of 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 regularly review the Council's Statement of Gambling Policy. The current policy was adopted in January 2019 and is therefore due for review this year, to be published in January 2022.
- 1.2 The Gambling Policy is part of the Council's Policy framework and therefore has to be reviewed by Overview & Scrutiny Committee. This report seeks to consult O&S on the draft Statement of Gambling Policy and Local Area Profile.

2. Cabinet Member Introduction

- 2.1 The Council has a duty to consult on the proposed policy and officers have sought approval from cabinet to conduct the consultation, which is underway. Following consultation, a further report will be presented to the Cabinet in November 2021 to consider the results of the consultation and, in light of the consultation, to recommend approval of the Statement of Gambling Policy for Full Council in December 2021.
- 2.2 Whilst gambling is legal it has the potential to cause harm to both individuals and wider society, resulting in unemployment, debt, crime, relationship problems and physical or mental health conditions. This presents a challenge as it involves a range of services such as licensing, community safety, children and families and housing/homelessness and therefore cannot be tackled by interventions aimed solely at individuals.
- 2.3 Problem gambling disproportionately affects certain groups, including ethnic minorities, young people, those in the criminal justice system and homeless people. Research estimates that the social cost of gambling to the UK economy could be up to £1.2 billion.
- 2.4 Whilst Local Area Profiles have been in use for some years, it is clear that they do not give Councils sufficient power to declare areas of saturation of gambling premises. To this end Haringey has presented a response on the government's review of the Gambling Act 2005 – 'Call for Evidence', in which we are asking

for a stronger commitment to empower Councils to listen to the concerns of the local community by removing the 'aim to permit' requirement. A copy of the response is attached at Appendix 3.

3. Recommendations

3.1 The Overview and Scrutiny Committee is asked:

- (a) To note that, following consultation, a further report will be presented to Cabinet to recommend the Statement of Gambling Policy to Full Council for final adoption.
- (b) To consider the draft Statement of Gambling Policy 2022-25, set out in Appendix 1 of the report, and the draft Local Area Profile, set out in Appendix 2 of the report, and make any comments or proposed recommendations to Cabinet.

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 2022-2025.

4.2 To obtain the views of the Overview and Scrutiny Committee on the proposed Statement of Gambling 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 a constitutional requirement that the Overview and Scrutiny Committee be consulted. 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.

6. Background information

6.1 The Council is the Licensing Authority for the purposes of the Gambling Act 2005 and is required to prepare a Statement of Gambling Policy that it proposes to apply in exercising its function 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 circumstances within licensing decisions. This had, 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, there has been a slight decline since the changes to the stakes permitted on fixed odds betting terminals (FOBTs);
- concerns that vulnerable people could be targeted or and exploited; and
- concerns that children could be 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. The issues of betting shop clustering and concern over fixed odd betting terminals (FOBT) have been slightly mitigated with the change in the stakes now reduced to £2. As a result of this there has been a reduction in betting shops in general in the borough but we are seeing these vacated premises being replaced by Adult Gaming Centres. The requirement for local risk assessments in relation to gambling premises licences since April 2016 means local authorities can set out their expectations within their Statements of Gambling Policy.

6.5 The Gambling Commission made some key changes to the standard Licence Conditions and Codes of Practice (LCCP) which all licensed Operators must comply with under their Operators’ Licence. The Social Responsibility Code, which forms part of the LCCP, requires prospective and current operators to have regard within their business operations to risk assessments, including any set out in the Local Authority Statement of Gambling Policy. This has provided an opportunity for local issues to be considered within licence application determinations.

6.6 The Local Area Profile acts as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments.

The benefits are:

- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it;
- greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application;
- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge; and
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

6.7 The Local Area Profile looks at the objective of the protection of children and other vulnerable persons from being harmed or exploited by gambling. Within

the Haringey Statement of Gambling Policy, we state that the east of the borough carries higher deprivation and social economic imbalances and therefore should have special consideration given to it in relation to the proximity of gambling premises to:

- an educational establishment, including colleges and universities, youth clubs, recreational establishments;
- close to a centre dealing with vulnerable people, including housing, clinics, recovery centre, food banks;
- situated in an area of high crime;
- situated in an area of deprivation;
- close to the location of services for children such as libraries and leisure centres;
- Places of worship, community facilities or public buildings;
- Areas where there is considered to be an over concentration of similar existing licensed operations; and
- close to the location of businesses providing instant access to cash such as payday loans, pawn shops.

6.8 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 attempting to restrict them from the outset.

6.9 Call for Evidence – The Government recently undertook a consultation exercise with the following aims:

- Examine whether changes are needed to the system of gambling
- regulation in Great Britain to reflect changes to the gambling landscape since 2005, particularly due to technological advances.
- Ensure there is an appropriate balance between consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and wider communities on the other.
- Make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land based industries.

6.10 The Review is led by Ministers at the Department for Digital, Culture, Media & Sport, with engagement from across government, the Gambling Commission, the industry, health and charitable sector, those with lived experience of gambling harm, and other stakeholders. After this initial 16 week call for evidence, the government will assess the evidence presented, alongside other data, with the aim of setting out conclusions and any proposals for reform in a white paper later this year.

6.11 Haringey’s response to the consultation is attached at Appendix 3 and summarised as follows:

We believe the legislation should be altered and the Act could be strengthened by the following changes:

- That Licensing Authorities should be permitted to determine saturation policies based on impact and have the ability to create cumulative impact policies written into the legislation.
- Inserting a 'need test' into the Gambling Act 2005, similar to the previous Gaming Act 1968 that is based on community need would also support and provide councils dealing with applications in deprived areas the powers to tackle problems and respond to their residents' concerns and fears.
- That Licensing Authorities should have discretion to refuse where there is a proliferation of gambling premises and the "aim to permit" requirement should be repealed and the emphasis placed on the applicant as to both the need and any control measures that are required to be put in place.
- We need to ensure the concerns of residents are effectively considered when a new gambling premises arises in the area, especially highlighting how a new gambling premises may negatively impact their health and wellbeing. We recommend a future legislation around planning and licensing allows the voice of the residents to be considered including education and health establishments and community groups.

7. Proposed changes

- 7.1 The outcome of the Government consultation is not expected until after the 2022-2025 Gambling Policy is due to be adopted, however given the requirement to keep the policy under review, if any further changes to the policy are required these can be made after the new policy is adopted.
- 7.2 There are no major changes to the proposed policy at this time. The draft revised policy and the Local Area Profile Supplementary document highlights the impact high street gambling premises has on the most vulnerable and 'at risk' areas of the borough. The Council considers that it is necessary to manage the impact that facilities for gambling have in areas where its most vulnerable residents may be placed at increasing risk from gambling harm. The Council seeks to regulate gambling activities under its control and provide a framework for consistent decision-making.
- 7.3 The Local Area Profile has been updated to include the 2011 Census data (the 2021 census data will not be available until after the policy is adopted). The latest data showing Indices of Deprivation 2019 has also been updated in the area profile.
- 7.4 Whilst we have detailed information in the Local Area Profile it is possible to consider a specific detailed research into gambling harm in the borough. In order to undertake such an exercise, we would need to commission an outside organisation or suitable body able to carry out the type of social research required. This would require financial resources (unfunded at present) and it is

important to note that the overriding aim to permit would still the overriding principal in applications and decision making on gambling matters.

8. Consultation

8.1 The policy will be subject to consultation with stakeholders, with any comments received on the draft presented to Cabinet later in the year. Consultation is required to ensure any changes to the Statement of Gambling Policy is 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;
- The general public; and
- 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; and
- The Citizen Panel.

8.4 Responses provided will be analysed, and any changes considered appropriate to the draft policy will be included in a further report presented to Cabinet in November 2021.

8.5 Timeline and adoption route:

Report taken to Cabinet to seek approval to start consultation/	15 June 2021
Consultation started	July 2021
Report taken to Regulatory Services/Cabinet and Overview and Scrutiny for noting and making comments that will be taken to Cabinet.	Licensing Committee - 21 June 2021 O&S - 6 July 2021
Consultation ends	September 2021
Report to Cabinet with outcome of consultation and final version to ask for recommendation to Full Council to adopt	9 November 2021
Report to Full Council for adoption	22 November 2021
4 weeks public notice period.	1 December 2021

9. Contribution to strategic outcomes

- 9.1 The Statement of Gambling Act policy 2022-2025 will contribute to our fundamental themes and priorities in The Borough Plan 2019-23 which sets out a four-year vision to make Haringey one of London's greatest boroughs where families can thrive and succeed. The Haringey Council Community Wealth Building approach will create an economy that is rooted in the community.
- 9.2 Priority-2 People – *'Our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential.'* The protection of children and the vulnerable from harm within the licensing objective will contribute to this priority.
- 9.3 Priority-3 Place – *'Our vision is for a place with strong, resilient and connected communities where people can lead active and healthy lives in an environment that is safe, clean and green. As the borough continues to grow, becomes better connected and continues to be a destination for many Londoners, we will need to ensure Haringey remains a safe and pleasant environment for all. We want to work with partners and the local community to achieve this and to define and shape how the borough looks and feels, both now and in the future.'* Residents engaging in the licensing process will contribute to this priority and allow them to have a say in how premises operate. The expectations set out the Policy will inform applicants for licences of the kind of best practice and responsible management expected for well-run premises in the borough.
- 9.4 Heath & Wellbeing Strategy – Poor mental health has been shown to play a significant part in peoples gambling habits People with gambling problems often experience a range of negative effects, including health issues, relationship breakdown, and difficulties with debt. In more severe cases gambling problems can lead to crime, thoughts of suicide or suicide itself. Haringey has the sixth highest rate of domestic abuse with injury in London, money problems within the home may be a contributing factor to this. Because of this, there are increasing calls for gambling to be recognised as a public health issue, where the enjoyment of the many should be balanced against the protection of the few. The gambling industry is increasingly being called upon to do more to protect participants and prevent problem gambling from occurring, and the National Responsible Gambling Strategy emphasises the need for joint action between industry, government, healthcare providers and other public bodies to tackle gambling-related harm.
- 9.5 Community Safety Strategy – The Community Safety Strategy presents Haringey's approach and priorities to achieving a reduction in crime and anti-social behaviour in Haringey up to 2023. The strategy is supported by a comprehensive strategic assessment that draws on data from across the partnership to identify trends, patterns, and drivers relating to crime and anti-social behaviour. The Local Area Profile within the Gambling policy will draw on data from this Strategy. Crime data in relation to gambling premises and the operation of Betwatch will feed into the Strategy.
- 9.6 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.
- Customer focus – placing our customers’ needs at the centre of what we do.

9.7 Licensing is about regulating the carrying on of licensable activities within the terms of the Act. The Statement of Gambling Policy should make it clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals at these locations. The operators risk assessment and management of the Licensing Codes of Practice will be a key aspect of such control and should always be part of a holistic approach to the management of the premises. It is therefore desirable that the SGP is in line with the Council’s wider objectives and consistent with other policies.

10. Statutory Officers comments Chief Finance Officer (including procurement), Head of Legal and Governance, Equalities)

10.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report and comments as follows.

10.2 There are no legal implications arising from this report.

10.3 As the Gambling Policy is a policy framework document, Overview and Scrutiny are consulted on the policy so that they may make their views known to Cabinet before the Policy is adopted by Full Council, as set out in the Council’s Constitution at Part Four, Section E, paragraph 2.2.

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 and as part of that review it consults with the public. An Equalities screening tool has been completed and further data will be collected as part of the public consultation with a view to completing a full Equality Impact Assessment (EqIA).

13.4 The Council will include the draft 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 Betting shops were removed from their previous A2 use class and made a 'sui generis' use. As such planning permission is now required to change the use from any other use to a betting shop. This has meant that there is slightly more control under planning legislation to control the growth of Betting Shops.

14.2 Planning powers cannot control existing betting shops if they have already opened up under a permitted change of use (i.e. before the recent changes to the use class order moving betting shops from A2 to 'sui generis'), however any further change of use applications for a betting shop would be subject to a planning application. As part of the determination of the application, issues such as the number of betting shops in the surrounding area could be a consideration if the area was becoming saturated with betting shops.

15. Use of Appendices

Appendix 1 – Haringey Draft Statement of Licensing Policy for the Gambling Act 2022-2025.

Appendix 2 – Draft Local Area Profile.

Appendix 3 – Haringey response to 'Call for evidence'.

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.