

REVIEW OF GAMBLING ACT 2005 POLICY – OUTCOME OF CONSULTATION

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Wards Affected: All

PROPOSED RECOMMENDATION TO COUNCIL

That the Committee comment on the draft Statement of Licensing Policy as set out at Appendix A and recommend it to Council for approval.

Reason for Decision

To comply with the requirements of the Gambling Act 2005.

Executive Summary

Members may recall that the Council originally approved the Statement of Licensing Policy under the Gambling Act 2005 in December 2006. In accordance with s.349 of the Gambling Act 2005, the Council is required to review, prepare and publish this policy at least every 3 years, following full consultation. The consultation process has now taken place and Members are requested to consider the draft revised Policy.

Policy/Community Plan Implications

The revision of the Licensing Act 2003 policy contributes to the Community Plan Aims in respect of regeneration and cohesive communities.

Corporate / Legal Implications

The review and publication of the Policy must be carried out in order to comply with the Gambling Act 2005. Non-compliance may lead to possible legal and financial implications in that future applications determined under the Act may be challenged.

Detailed Report

1. The Statement of Licensing Policy must be reviewed, undergo a consultation process and be approved by Council in December this year, as required by the Gambling Act 2005.
2. The consultation process took place between the 20th June and the 16th September 2018.
3. Approximately 100 letters were sent to organisations and individuals including responsible authorities, trade organisations, representatives of the licensed trade, Parish Councils and Members. The consultation process was also advertised on the Council's website.
4. Three responses were received, although one of these (from Gamcare) was a generic response sent to all local authorities and provided only general comments on policy content. It is considered that the points made in this response are already adequately covered within the policy. The other two responses were received from solicitors on behalf of The Association of British Bookmakers (ABB) and from Talarius Ltd which operate gaming arcades under the trade name Quicksilver, along with stand alone gaming terminals. These responses provide specific suggestions in relation to the policy and will be considered in more detail. Copies of all three responses are attached at Appendix B.

Talarius

5. Point 1 of the response on behalf of Talarius refers to the significance of the Regulator's Code on the Council's enforcement activities in relation to gambling matters. It suggests that the draft policy "records the Code's general application to the Authority's activities under the Act". Section 8 of the draft policy refers to the Code, however, and it is clear that the Council must have regard to it in carrying out its activities. As a result it is not considered that any amendments are required in this respect.
6. Point 2 of the response refers to the ability of children to take part in certain gambling activities and raises concerns that the draft policy appears to specify a blanket prohibition. It is considered that this suggestion is reasonable and the relevant paragraph at 1.4 on page 8 has been amended to reflect this.
7. Point 3 of the response refers to case law which confirmed that a full premises licence application can be made for gambling premises where a building is still under construction. The response suggests that the draft policy is amended to reflect this which is considered to be reasonable. As a result paragraph 2.2 has been amended to reflect this.
8. Point 4 of the response refers to the inclusion of other policies and legislation within the draft policy and considers that these should not be included. Although it is accepted that the predominant legislation relevant to the policy is the Gambling Act 2005, it is considered that other matters can be taken into consideration in determining applications so long as they are not inconsistent with the Act. To clarify, however, paragraph 2.3 has been amended slightly for the avoidance of any doubt. This point also requests that clarification is given that representations can only be made by certain parties and the final sentence of paragraph 2.3 has been amended to reflect this.
9. Point 5 of the response notes that a specific section relating to adult gaming centres has not been included within the draft policy. A section on this type of gambling premises has now been added at 3.8.
10. Point 6 of the response suggests that the list of possible measures specified for family entertainment centres should also apply to betting and bingo premises. This is considered to be a reasonable suggestion and paragraph 3.9 has been amended to reflect this.
11. Point 7 of the response states that it is not a statutory requirement for licence holders to provide copies of their local area risk assessments and that our policy should reflect this. Paragraph 2.5 has been amended accordingly.
12. Point 8 of the response refers to concerns raised about the inclusion of self-exclusion data within local area risk assessments. The bullet point at 2.5 has been amended to clarify data protections requirements. The point also states that the bullet point referring to gambling trends and benefit payments is vague and should be removed. On reflection this point is agreed and the point has been removed.

Association of British Bookmakers

13. The solicitors acting on behalf of the ABB were pleased with the light touch approach of the draft policy and confirmed that they had very few specific comments to make.
14. The first comment in this response reiterates the point made above by Talarius in relation to the bullet point regarding “gambling trends” which has already been deleted. It also suggests that the final bullet point on this list should be removed because it relates to nuisance rather than one of the licensing objectives set out under the Act. It is, however, considered that street drinkers and youths are likely to be vulnerable persons who are more likely to require protection and who are specifically referred to within the Act. The wording has therefore been amended to clarify this but it is considered that the bullet point should remain.
15. The second comment suggests that the wording relating to conditions should be amended to clarify that the default conditions are usually adequate to ensure compliance with the licensing objectives and that additional conditions should only be considered where concerns are raised. This suggestion is considered to be reasonable and paragraph 3.4 has been amended accordingly.
16. The final comment refers to the need to differentiate between the authority’s ability to limit betting machines in betting premises from gaming machines, where authorities have no such power. Paragraph 3.11 has been amended to reflect this.
17. It is not considered that any further amendments to the policy are required.
18. Spare copies of the Statement will be available for Members at the Committee meeting.
19. The Committee is requested to consider the Statement and make any comments for further amendment prior to its submission to full Council for adoption in December.

Options

The Statement of Licensing Policy can approved as it stands or be further amended by the Committee should it be considered necessary to do so.

Next Steps

Once approved, the Statement of Licensing Policy will be considered by Full Council at its meeting on the 10th December 2018

Background Papers

Gambling Act 2005