

Full Council

7 December 2021



Report of: Director of Growth and Regeneration

Title: Statutory Review of Gambling Policy

Ward: Citywide

Member Presenting Report: Nicola Beech, Cabinet Member Climate, Ecology, Energy and Waste

Recommendation

That Full Council adopt the draft Statement of Gambling Policy 2022

Summary

The Licensing Authority has a statutory responsibility to review its Statement of Gambling Policy every three years. The new policy will take effect from January 2022

The significant issues in the report are:

Limited changes from previous statement of Gambling Policy

The main regulator is the Gambling Commission

The Local Authority role focuses on the location of gambling premises

Low risk area for the Local Authority



Policy

1. The formulation of a Statement of Gambling Policy is a statutory requirement

Consultation

2. Internal

Statutory consultation is required for this review; however internal consultees are not specified. The authority consulted with a range of internal consultees including Public Health, Pollution Control, Planning, Child and Adult Services and Safeguarding. No comments were received from them.

3. External

Statutory consultation was required for this review, and the authority must consult with at least persons who represent the interests of persons carrying on gambling activity, persons who appear to represent the interest of persons likely to be affected by the regulation by the authority, and the chief officer of police. Guidance from the Gambling Commission sets out how consultation should be undertaken, who should be consulted and the issues that can be taken into account to help inform the policy review. The issues that can be considered are limited and general views on gambling, types of gambling machines and gambling operators cannot be taken into account as these are covered by the primary regulator which is the Gambling Commission. The local authority role focuses on the location of premises in relation to the prevention of crime and disorder, protecting children from harm and ensuring that regulated gambling activity is conducted fairly. A 12 week consultation was undertaken and one comment was received which is detailed below.

Context

4. The Gambling Commission is the primary regulator for gambling and is the body which regulates and controls operators and their gambling activities. The Commission provides national policy and statutory guidelines which local authorities are required to follow. This includes a responsibility to put in place a local policy, based on statutory guidelines and a national framework that sets out how the licensing authority will discharge its functions under the Gambling Act. There is a statutory requirement for a new policy every three years. The Licensing Authority's role is mainly concerned with the licensing of premises for gambling activities.
5. This is a review of existing policy to ensure legislative changes are updated, in line with the guidance from the primary gambling regulator, Gambling Commission. One comment was received as below:

Hi in regards to "Ensuring that gambling is conducted in a fair and open way" I note that with casinos and bookmakers always have an edge. That's how they make a profit. Their games are unfair by design. What do you plan to do about that? Also please ban fixed odds betting terminals from Bristol.

6. Fixed odds betting machines are set out in statute and the council has no control of numbers, or the ability to ban them. The wording of the statute sets out the gambling objectives, one of which is to ensure that gambling is conducted in a fair and open way. Therefore there is no

proposal to amend the draft policy any further.

7. The responsibility of the licensing authority in respect of gambling activities is extremely limited, and covers premises licences such as betting shops and casinos, gaming machines like those found in pubs, and small lotteries. The regime is permissive and so the authority cannot refuse applications unless there are good reasons to do so, based on the gambling objectives. Previous experience shows that applicants and licence holders are generally compliant, and don't often require wider enforcement activity. Areas such as suitability of applicant, advertising restrictions, and management of problem gambling are dealt with at a national level by the Gambling Commission under statutory requirements.
8. With the rise of mobile technology such as smart phones and tablets there has been the ability for people to access gambling in more ways such as online, and through apps. The government is currently undertaking a review of the Gambling Act 2005, which has the potential to overhaul the powers of the Gambling Commission, and include protections for online gamblers such as limits on stakes and spend, additional controls on advertising and promotions, and extra protections for young people. It's likely that the majority of these changes fall under the purview of the Gambling Commission as they primarily relate to the proliferation of online gambling. There has also been a decrease in the number of physical betting shops since the last policy review, possibly due to the increase in online gambling combined with the impact of restrictions requiring them to be closed during the Covid-19 pandemic.
9. Whilst the council does not have legislative power relating to advertising on television and online the council does have an advertising and sponsorship policy, which relates to advertising the council may undertake, as well as the council as an owner of an advertising platform or sponsorship opportunity. This states that advertising relating to gambling would not be acceptable for the council to either promote, or permit to be advertised on any council owned advertising platform.

Proposal

10. The Gambling Act 2005 places a duty on the Council, as the Licensing Authority, to develop a Statement of Principles that it proposes to apply in exercising its functions under the Act. In this report the Statement of Principles is called the Gambling Policy. The Gambling Policy must have regard to, and be consistent, with the Gambling Act 2005's three objectives:
 - preventing gambling from being a source of crime and disorder;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from harm or exploitation
11. The recommendation is to approve for publication and implementation the Statement of Gambling Policy to take effect from 31 January 2022.

Other Options Considered

12. No other option as this is a statutory requirement

Risk Assessment

13. The publication of the Statement of Gambling Policy is a statutory requirement.

Summary of Equalities Impact of the Proposed Decision

9. Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.
9. Officers have completed an Equalities Impact Assessment attached as Appendix D. The risks identified were minimal and the policy ensures that the Council is well placed to identify any adverse impact in respect of all protected groups when it is engaged in considering applications.

Legal and Resource Implications

Legal

In accordance with section 349 of the Gambling Act 2005 (“the Act”) the Council, as Licensing Authority, is required to publish a Statement of Gambling Policy in each three year period. In preparing a statement or revision under section 349 of the Act a licensing authority is required to consult—

- a) the chief officer of police for the authority's area,
- b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- c) one or 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 this Act.

Where a consultation process is undertaken, case law guides on what constitutes lawful consultation and from this some key guiding principles have been established, in summary that those being consulted must:

- be provided with material upon which a decision is likely to be made;
- be given enough time for intelligent consideration of that material and to respond to it;
- be given the opportunity to make considered representations;
- have their representations conscientiously considered.

It is therefore important that the decision maker is satisfied that that any consultation process allows sufficient time to enable any person or body wishing to make representations to obtain relevant material, to consider it and to put their representations to the Council.

The final approval of the Statement of Gambling Policy is a function reserved to full Council.
(Legal advice provided by Sarah Sharland, Team Leader, 18 August 2021)

Financial

(a) Revenue

There are no finance implications of the revision to the policy

(b) Capital

There are no finance implications of the revision to the policy

(Financial advice provided by George Grant, Interim Principal Account, 20 August 2021)

Land

Not applicable

Personnel

There are no HR implications associated

(Personnel advice provided by Celia Williams, HR Business Partner, 17 August 2021)

Appendices:

Appendix A – Statement of Gambling Policy

Appendix B – Summary of Policy Changes

Appendix C – Local Area Profile

Appendix D – Consultation Details

Appendix E – Equalities Impact Assessment

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None