

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
to

Cabinet Briefing

on

23 June 2015

Report prepared by Adam Penn,
Team Leader - Regulatory Services.

Gambling Act 2005 - Approval of draft Statement of Gambling Licensing Policy
Economic and Environmental Scrutiny Committee –
Executive Councillor: Councillor Norman
A Part I Public Agenda Item

1. Purpose of Report

- 1.1 To set out the legal obligations on the Council, acting as Licensing Authority, and the timetable for the review in respect of the Gambling Licensing policy.
- 1.2 To set out a draft revised Policy Statement, as the basis for formal consultation. (This is contained in Appendix 1).

2. Recommendation

- 2.1 **That Cabinet endorses the draft revised Policy document, enabling consultation to commence.**

3. Background

- 3.1 The Council's Statement of Policy under the Act was approved in December 2012, and came into force on 16th January 2013. It is thus imperative that the Council undertakes the review process and publishes its Statement of Policy before the beginning of 2016
- 3.2 The Act requires that the policy is kept under constant review and amended before the statutory period ends where significant change is identified.
- 3.3 Before determining the Policy for each three year period, the Licensing Authority must consult:
 - a) The Chief Officer of Police for the Licensing Authority's area;
 - b) One or more persons who the Licensing Authority considers to represent the interests of persons carrying on gambling business in the authority's area, and
 - c) One or more persons who appears to the Licensing Authority to represent the interests of persons affected by the exercise of the authority's functions under the Act

- 3.4 In determining its policy the Licensing authority must have regard to the Gambling Commission publication 'Guidance to Licensing Authorities'.
- 3.5 The Gambling Commission have recently commenced a consultation on their Guidance to Licensing Authorities (GLA) with significant changes being made. It is anticipated by the Commission that the publication date of the revised document following consultation will be sometime towards the end of September 2015
- 3.6 The potential problems caused by the revision of the GLA have been raised with the Gambling Commission and they appreciate that the timing is not ideal given those Licensing Authorities still on the original 3 yearly review timetable (such as Southend) will be reviewing their policy statements this year. However, they state that they were curtailed in publishing the GLA consultation by the response to the recent Licence Conditions and Codes of Practice (LCCP) consultation which proposed quite a number of conditions which impact on the GLA content and which in turn needs to be reflected in LA policy statements.
- 3.7 This leaves The Council in a situation whereby our Statement of Licensing Policy requires updating to reflect changes made by the Gambling Commission. This task will be difficult to undertake when we know that there are so many changes coming forward and there will be insufficient time to carry out a meaningful consultation before the existing policy expires on 15th January 2016.
- 3.8 It is therefore proposed that Council re-adopts the current policy, following a consultation with the parties listed at 3.3 above, as it stands with some amendments, for the next three year period (January 2016 to January 2019), although a policy should always be kept under review so that it can reflect changes in law, guidance and codes of practice. This will provide sufficient time for The Authority to carry out a full review of the policy, in light of the Gambling Commission's published changes to the LCCP and GLA, and for a review to take place as soon as possible following the publication of these documents in order that the policy can be updated at the earliest convenience.
- 3.9 The changes to the final Gambling Commission Guidance document are expected to include the following matters:-
- a) The importance of local decision making and accountability in gambling regulation, and the value of shared regulation through partnership working between the Commission and licensing authorities based on close cooperation and communication. This includes greater clarity on the role and responsibilities of licensing authorities in their decision making relating to local gambling regulation.
 - b) Proposed requirements (in the LCCP) for Local Area Risk Assessments to be undertaken by operators
 - c) The links between alcohol licensed premises and Gambling
 - d) Set out the range of statutory powers provided by other legislation, which licensing authorities could use to resolve gambling related issues eg the Proceeds of Crime Act 2002 (PoCA) and planning legislation
 - e) Updates reflecting regulatory, political and legislative changes since the 4th edition of the GLA was published in September 2012
- 3.10. Controls on Fixed Odds Betting Terminals are not specifically mentioned in the draft GLA, mainly because they are the subject of the Fixed Odds Betting

Terminals (Betting Shops) Bill 2014-15 which has yet to receive Royal assent. The bill proposes to create a specific planning class for betting shops containing these machines; thus local authority controls will be via the planning regime not the licensing one.

4. Other Options

- 4.1 Should the Council fail to approve a final Statement of Policy, it will be in breach of its statutory duty under Section 349 of The Gambling Act 2005.
- 4.2 The deadline for publication of the Policy is 15th January 2016.
- 4.3 A fully revised policy could be consulted on, but without the benefit of knowing the outcome of the GLA there is a risk that the final policy would not reflect Gambling Commission guidance. In this scenario the further review proposed at 3.8 above would be required in any case and in light of this it is not considered that another option exists.

5. Reason for Recommendation

- 5.1 To enable the Council to comply with its statutory duty under Section 349 of 'The Gambling Act 2005'.

6. Corporate Implications

- 6.1 Contribution to Council's Vision & Corporate Priorities

A statement of Licensing Policy will be instrumental in the effective assessment of applications, and in helping to ensure proper conduct of approved premises. It is thus supportive of the Council's Vision. Further, the licensing objective of "preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime" is central to the Council's critical priority of creating a Safer and Prosperous Southend.

- 6.2 Financial Implications

The annual licence fees form part of the overall budget for the Council; however fee levels do not form part of this policy. The Act requires that fees are set at a level which covers the cost of administering the system without making a profit.

- 6.3 Legal Implications

Section 349 of the Gambling Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

- 6.4 People Implications

There are no people implications as a result of this report.

- 6.5 Property Implications

There are no property implications as a result of this report.

6.6 Consultation

Section 349 of the Gambling Act that all Licensing Authorities consult on a draft policy prior to approving a final policy. The list of persons to be consulted when preparing this Licensing Authority's Statement of Policy was deliberately wide. This enabled the Council to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Licensing Authority Statement of Policy. The list of consultee's is outlined at annex A in the policy.

As part of the process, the Licensing Committee will also be consulted before the final Statement of Policy is approved and it is proposed to refer it to Place Scrutiny on 13th July so that Scrutiny Committee Members views can be canvassed.

6.7 Equalities and Diversity Implications

There are no equality and diversity implications as a result of this report.

6.8 Risk Assessment

The main risk identified is that failure to adopt a policy which has regard to the Gambling Commission 'Guidance to Licensing Authorities', or publish the final Policy by 16th January 2016, would put the Council in breach of its statutory duty under the Act.

6.9 Value for Money

The annual licence fees form part of the overall budget for the Council; however fee levels do not form part of this policy. The Act requires that fees are set at a level which covers the cost of administering the system without making a profit..

6.10 Community Safety Implications

There are safety implications as a result of this report.

6.11 Environmental Impact

There are no equality and diversity implications as a result of this report.

7. Background Papers

7.1 Gambling Act 2005.

7.2 Gambling Commission Guidance to Local Authorities, September 2012, 4th Edition.

8. Appendices

8.1 Appendix 1: Draft Statement of Gambling Licensing Policy.