

Southend-on-Sea Borough Council

Agenda
Item No.

Report of the Deputy Chief Executive (Place)
to

Cabinet

on

19th June 2018

Report prepared by Adam Penn,
Regulatory Services Manager.

Gambling Act 2005 - Approval of draft Statement of Gambling Licensing Policy

Place Scrutiny Committee
Cabinet Member: Councillor Mark Flewitt
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 current Statement of Policy under the Act was approved at cabinet on 14th March 2017 and at full Council on 20th April 2017. The revised policy came into force on 24th April 2017. It is valid for a maximum period of 3 years or until the next statutory renewal date, whichever is sooner.
- 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. This was the case in 2016 /17 when the policy was last reviewed. The current statutory period ends in January 2019. As a result it is necessary to review the policy again even though it has only been in force for a little over a year.
- 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 authorities 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 published version 5 of their Guidance to Licensing Authorities (GLA) which took effect in January 2016. There were significant changes made in that version, most notably a requirement for "Local Area Risk Assessments" to be undertaken by gambling operators. At the same time changes were made to the Commission's Licensing Conditions and Codes of Practice (LCCP). These are conditions to which licence holders are required by the Act to adhere to.
- 3.6 In order to adopt these changes The Council carried out a 'mid-term' review of its Statement of Policy and published the revised policy last April.
- 3.7 Due to the policy being reviewed so recently there are only a few proposed amendments at this review.
- 3.8 The changes to the proposed statement of policy document include some general updates and the following matters:
1. A new section on underage test purchasing advising licensees that we carry out tests and outlining our expectations if they do their own tests (section 13.6);
 2. A paragraph advising licensees that their local area risk assessment should be available on site for inspection (14.13);
 3. Clearer guidance to applicants on the requirements of layout plans submitted with their application (14.27 & 25.2);
 4. A specific section on fixed odds betting terminals outlining expected minimum control measures and stating the Licensing Authority view on the emerging trend of fitting privacy screens in betting shops (21.5 & 21.6).
- 3.9 The Government have announced a proposed change to reduce the stakes on the Fixed Odds Betting Terminals (FOBTs) to £2.00. The current maximum stake of £100 will remain in place until the law is changed which requires the passing of secondary legislation through Parliament. Changes to the legislation will be reviewed once the new legislation has been passed.
- 3.10 The requirement to carry out local area risk assessments was added to the policy for the first time in April 2017. It is felt that at present the process has not fully bedded in and there is insufficient data at this stage to propose major changes. Therefore, the only change to the policy is to require existing operators to carry out assessments as well as licence applicants (14.18).
- 3.11 The legislation does not permit the limiting of the number of premises in a particular area.

4. Other Options

4.1 Should the Council fail to review and subsequently 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 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 with a statutory maximum fee for each type of licence.

The 2018/19 annual budget for this area of income is £46.5k (2017/18 actual = £42.1k).

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

No people implications at this stage.

6.5 Property Implications

No property implications at this stage.

6.6 Consultation

Section 349 of the Gambling Act requires 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 is outlined at annex A in the policy.

The list of consultees is limited to the statutory requirement and those that the proposal will be likely to affect. This is because the changes are minimal and will almost exclusively only affect licence holders. As part of the process, the Licensing Committee and Public Health England will also be consulted.

6.7 Equalities and Diversity Implications

None. An equalities assessment will be carried out for the final policy. The consultation responses will feed into the assessment.

6.8 Risk Assessment

The main risk identified is that failure to review and subsequently adopt and publish a policy in time, would put the Council in breach of its statutory duty under the Act.

Further, any decisions made by The Licensing Committee (or officers by delegation) would be open to legal challenge caused by the lack of a valid policy.

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

The licensing objectives of the Act are designed for the protection of the community and the effect that the granting of a licence could have on it. The policy sets out the expectation of The Council as to how operators should promote these objectives. This includes the requirement that licensees carry out a local area risk assessment.

The Licensing Objectives are:

- 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;
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

6.11 Environmental Impact

There are no environmental impacts at this stage.

7. Background Papers

7.1 Gambling Act 2005.

7.2 Gambling Commission Guidance to Local Authorities, September 2015,

5th Edition.

7.3 Gambling Commission's Licensing Conditions and Codes of Practice (LCCP).

8. Appendices

8.1 **Appendix 1:** Draft Statement of Gambling Licensing Policy.