

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Deputy Chief Executive (Place)

To
Cabinet
On
6th November 2018

Report prepared by Adam Penn,
Regulatory Services Manager

Gambling Act 2005 - Approval of Statement of Gambling Licensing Policy

Place Scrutiny Committee
Cabinet Member: Councillor Flewitt
Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 To update Members on the outcome of the formal consultation process in respect of the Gambling Licensing policy.
- 1.2 To set out a proposed final statement for the purposes of the Gambling Act 2005 (in order to meet the timetable for introduction by 31st January 2019).

2. Recommendations

- 2.1 **That Cabinet recommends to Council that the Statement of Gambling Licensing Policy, set out in Appendix 1, be adopted.**

3. Background

- 3.1 The Council's Statement of Policy under the Act was approved on 3rd March 2017 and came into force on 24th April 2017. It is valid for a maximum period of 3 years or until the next statutory review date, whichever is sooner. The current policy expires on 30th January 2019, and the Council, as the Licensing Authority is required to adopt a new one by 3rd January 2019.
- 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 On 23rd July 2018 the Council published a draft statement of Licensing Policy. In line with best practice, a formal consultation was carried out, with the request that responses be received by 2nd September 2018. The consultation exercise involved the following elements.

- a) The despatch of a letter to the holders of existing licenses and permits for Adult and Family Entertainment amusement centres the proprietors (or head office) of all betting shops, bingo halls and casinos. The same notification procedure was operated for a range of trade association and voluntary groups, legal firms and others with known interests. This gave a brief explanation the consultation process, and gave details of the availability of the draft policy document. The proposed changes were highlighted within the draft policy.
 - b) Utilising details held within the departmental records, the same approach was taken for a sample of lottery permit holders and alcohol licensed premises holding gaming machine permits.
 - c) A letter was also sent to a range of residents associations, tenants groups and focus groups.
 - d) Letters were sent to key charities, interest and support groups.
 - e) Letters and a link to the policy were sent to all of the Responsible Authorities under the Gambling Act, other relevant sections of the Council
 - f) All Members of the licensing committee were emailed a copy of the draft policy together with details of how to comment.
 - h) Inclusion of the draft policy document on the Council's website in the Consultation Section.
 - i) Continuing response to enquiries, by Officers of the Licensing Team, in person or by telephone.
 - j) In total around 350 letters and emails were sent out at the start of the consultation period.
- 3.4 The full list of consultees is appended to the Policy document
- 3.5 As a result of the consultation process 9 written responses were received. Two of which were received a licence holders, and one from Public Health. The only Responsible Authority to respond was The Gambling Commission. Copies and an analysis of the responses can be found in **Appendix 2**
- 3.6 The changes to the statement of policy document, (in comparison to the existing one) include some general updates, address corrections etc. and the following matters: -
- a) 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) (Amended in response to consultation outcomes)
 - b) A paragraph advising licensees that their local area risk assessment should be available on site for inspection. (14.13)
 - c) A commitment to work with Public Health on future reviews of the Local Area Profile. (14.16)
 - d) Clearer guidance to applicants on the requirements of layout plans submitted with their application. (14.27 & 25.2)
 - e) 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).

This accords with The Gambling Commission's Guidance to Licensing Authorities, 5th Edition.

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 which requires the policy to be reviewed.
- 4.2 It is not considered that another option exists.

5. Reasons for Recommendations

- 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.

- 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

- 6.5 Property Implications

No property implications

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. Details of the consultation can be found in section 3.3 of this report.

6.7 Equalities and Diversity Implications

An equalities assessment was carried out for this policy.

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', 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 with a statutory maximum fee for each type of licence.

6.10 Community Safety Implications

None.

6.11 Environmental Impact

None.

7. Background Papers

7.1 Gambling Act 2005.

7.2 Gambling Commission Guidance to Local Authorities, September 2015, 5th Edition. Updated September 2016

8. Appendices

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

8.2 **Appendix 2:** Overview and an analysis of the letters received in response to the consultation process