

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
to

Cabinet

on

10 November 2015

Report prepared by Adam Penn,
Regulatory Services Manager

Gambling Act 2005 - Approval of 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 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. An approved document must be in place by December, in order to meet the statutory timetable for publication by 14th January 2016.

2. Recommendation

- 2.1 **That Cabinet recommends to Council that the Statement of Gambling Licensing Policy, set out in Appendix 2, be adopted.**

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 valid for a maximum period of 3 years. It is thus imperative that the Council undertakes a review process and publishes its next 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:
 - 3.3 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 recently carried out a consultation on their Guidance to Licensing Authorities (GLA) with significant changes being made. It was anticipated by the Commission that the publication date of the revised document following consultation was to be sometime towards the end of September 2015. The Council's Licensing team was advised by the Commission on 17th September 2015, that the publication would slip in to mid October, which was too late to amend and re consult on the policy.
- 3.6 This has left the Council in a situation whereby our Statement of Licensing Policy requires updating to reflect changes made by the Gambling Commission, but insufficient time to carry out a meaningful consultation before the existing Policy expires on 15th January 2016.

13.5 is removed completely and replaced with new wording. This is because the Regulatory Services Enforcement Policy has been updated since the last Gambling Policy was published, thus more clarity is required for that.
- 3.7 It was therefore agreed by Cabinet that the Council consults on re-adopting the current Policy, as it stands with just some minor amendments, for the next three year period (January 2016 to January 2019). Because a policy should always be kept under review so that it can reflect changes in law, guidance and codes of practice, this method provides sufficient time for the Licensing Authority to carry out a full review of the Policy, in light of the Gambling Commissions published changes to the Licensing Conditions and Code of Practice (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.
- 3.8 Following the Cabinet's approval to readopt the Policy, a consultation exercise was carried out in accordance with the provisions of the Gambling Act. In addition to the statutory consultees outlined at 3.3 above letters or emails were sent to the following:
 - a) all the responsible authorities under the Act
 - b) the Licensing Committee Members

This letter outlined the reasons behind the decision to re-adopt and highlighted the minor changes which were intended at this time.

These changes comprise:-

3.1 is amended to reflect downturn in number of premises

6.3 is amended to removed persons and bodies not consulted this time

8.2 the word "comprehensive" has been added

11.3 is amended to make the Licensing Authority's information sharing protocol clearer

- 3.9 As a result of the consultation process 4 responses were received. In summary, one was in favour of re-adoption, one centred mainly on the links between the respondent (The association of British Bookmakers) and the enforcing authorities the other two merely acknowledged receipt. Copies and an analysis of the letters can be found in **Appendix 2**.

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 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 set by the Government.

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.

6.7 Equalities and Diversity Implications

None. 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', 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

The Regulators Code contributes to the Crime and Disorder Strategy in outlining our processes and targeting resources as do the 3 objectives of the Act in particular the objectives of:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

6.11 Environmental Impact

There are no environmental impacts as a result of the report.

7. Background Papers

7.1 Gambling Act 2005.

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

7.3 Gambling Commission Guidance to Local Authorities, March 2015, 5th Edition consultation document.

8. Appendices

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

8.2 **Appendix 2:** Summary of consultation responses to the draft Gambling Policy.

8.3 **Appendix 3:** Letter received in response to the consultation process.