

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Deputy Chief Executive (Place)

to

Cabinet

on

8 November 2016

Report prepared by Adam Penn,
Regulatory Services Manager.

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

Place Scrutiny Committee
Executive Councillor: Councillor Flewitt
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 2015, and came into force on 31st January 2016. It is valid for a maximum period of 3 years.
- 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 published version 5 of their Guidance to Licensing Authorities (GLA) too late to be included in the policy which took effect in January 2016. There were significant changes made, 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 The Council was aware that this situation would arise and therefore in 2015 took the decision of re-adopting the previous policy, as it stood with just some cosmetic amendments, for the next statutory three-year period (January 2016 to January 2019) with an undertaking to carry out a full review of the policy once the Gambling Commissions changes to the LCCP and GLA had been published and analysed.
- 3.7 A review of the changes made by the Gambling Commission has now been carried out and a draft policy produced for consultation with those outlined in 3.3 of this report. A full list of the proposed consultees can be found in appendix A of the draft policy. The consultation will be open for a period of 8 weeks.
- 3.8 The changes to the proposed statement of policy document include the following matters:-
- a) Acknowledgement that the Licensing Authority will respect Primary Authority agreements (13.6)
 - b) Requirements (set out in the LCCP) for Local Area Risk Assessments to be undertaken by operators (14.9)
 - c) Details of a Local Area Profile (LAP) which will be published to assist operators in completing local area risk assessments. (14.16-14.18)
 - d) A suggested template for operators to utilise when carrying out their Local Area Risk Assessments. (annex E)
 - e) Clear guidance to operators on how applications are judged in respect to the Protection of children (14.20)
 - f) An updated definitions list (Annex C)
 - g) The changes at b) and c) above have necessitated a full revision of the manner in which the Licensing Authority looks at the location of a premises when considering an application. This review can be found in sections 14.7 to 14.18 of the draft policy.
- 3.9 The Local Area Profile will naturally be an evolving document and cannot be included as part of the policy because it would create requirement to review the whole policy every time local circumstances required an amendment of the LAP. (For example crime statistics change from year to year). Therefore, it is proposed to publish it as a standalone document which is referred to within the policy. The LAP can contain location details of the following establishments and area features.
- Children's Centres and Schools Sixth Form Centres, Nurseries & other educational establishments
 - Areas with a significant presence of children (e.g. Parks)

- Places of Worship, faith communities and community groups.
- Community Centres
- Hostels or Shelters for Vulnerable People
- Addiction Support Facilities (e.g. drug/ alcohol)
- Mental Health Centres
- Pawn Brokers and Pay-day loan Companies
- Other gambling premises in the area
- Residential Care establishments
- Hospitals & GP surgeries
- Job Centres
- Pawn Broker/ Pay Day Loan businesses in the area
- Post Offices Banks and/ or ATM facilities nearby
- Transport links
- Crime and Disorder Statistics
- Known anti-social behaviour issues
- The area footfall (e.g. is it a residential area, are there mainly visitors)
- Other premises in the area (type and operation)
- Known issues with ludomania
- The economic makeup of the area
- The surrounding night time economy
- Anything else the Licensing Authority considers pertinent.

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.

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 risks identified are that failure to review and subsequently adopt a policy which has regard to the amended Gambling Commission 'Guidance to Licensing Authorities', or publish the final policy, 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

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.

8. Appendices

Appendix 1: Draft Statement of Gambling Licensing Policy.