

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Deputy Chief Executive (Place)

to

**Cabinet**

on

**14 March 2017**

Report prepared by Adam Penn,  
Regulatory Services Manager.

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## **Gambling Act 2005 - Approval of Statement of Gambling Licensing Policy**

**Place Committee –**

**Executive Councillor: Councillor Flewitt**

**A Part I Public Agenda Item**

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### **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 publication by 24<sup>th</sup> April 2017)

### **2. Recommendations**

- 2.1 **That Cabinet recommends to Council that the Statement of Gambling Licensing Policy, set out in Appendix 2, be adopted.**
- 2.2 **That Cabinet recommends to Council that amendments to the local area profile are delegated to the Director of Public Protection**

### **3. Background**

- 3.1 The Council's Statement of Policy under the Act was approved in December 2015, and came into force on 31<sup>st</sup> 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. As such changes have occurred, due to changes made by the Gambling Commission in their Guidance to Local Authorities, it was imperative that the Council undertook a review process and publishes its next Statement of Policy as soon as possible.
- 3.3 On 30<sup>th</sup> November 2016 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 29<sup>th</sup> January 2017. 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 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 of the effect of

the legislation, and the consultation process, and gave details of the availability of the draft policy document.

- 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 the head offices of holders of gambling licences, and key charities, interest and support groups.
  - e) Letters and a copy of 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. A presentation outlining the changes was given to the committee on 24th January 2017
  - g) Press coverage was obtained during December and towards the end of the consultation period alerting the public to the consultation process, notably articles in the Evening Echo Group publications.
  - h) Inclusion of the draft policy document on the Council's website
  - i) Continuing response to enquiries, by Officers of the Licensing Team, in person or by telephone.
  - j) In total around 250 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 4 written responses were received. One of which was received a body representing the trade and another from a local resident. In addition, no requests were received for copies of the draft policy document and there were 60 'hits' on the webpage. Copies and an analysis of the letters can be found in **appendix 2**. An overview of comments made by the Licensing Committee is also included in this
- 3.6 Fewer responses to the consultation process have been received than with the Licensing Act policy consultation, which perhaps reflects the more specialist nature of the legislation and that the previous policies have worked effectively.
- 3.7 The changes to the statement of draft policy document, which have in turn carried forward to the final one, (in comparison to the existing one) include the following matters:-
- a) Acknowledgement that the Licensing Authority will respect Primary Authority agreements (13.6), meaning that where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by the scheme.
  - b) Requirements (set out in the Licensing conditions and code of practice (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) Clearer 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 policy.
- 3.8 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 or statistics change. Therefore, the LAP will be published as a standalone document which is referred to within the policy. The current version of the LAP can be found at **appendix 3**.
- 3.9 In order to ensure the LAP is kept current it is recommended that the amendment of it is delegated to the Group Manager, Regulatory Services.

#### **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. 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.

The Act also requires that the policy is kept under constant review and amended before the statutory period ends where significant change is identified. As such changes have occurred, due to changes made by the Gambling Commission in their Guidance to Local Authorities it is imperative that the Council undertook a review process and publishes its next Statement of Policy as soon as possible

#### **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**

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', 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, 5<sup>th</sup> Edition. Updated September 2016

## **8. Appendices**

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

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

8.3 **Appendix 3:** Latest version of the Local Area Profile