

Gambling Act 2005 – Review of Statement of Licensing Principles (Gambling Policy)

Submitted by: Head of Environmental Health/Licensing Administration Team Manager

Portfolio: Finance & Resources

Wards Affected: All

Purpose of the Report

To discuss and agree upon the consultation process for the Council's Gambling Policy.

Recommendations

1. To receive the report
2. To approve the draft Gambling Policy for Newcastle-under-Lyme
3. To approve the commencement of the 10 week consultation.
4. That any responses received to the consultation be considered by the Committee at the meeting to be held on 30th October 2018 and that recommendations of this Committee to be included in the final report to Full Council.
5. That the updated Policy be presented for approval to Full Council at its meeting on 21st November 2018.

Reasons

Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy every 3 years

1. Background

- 1.1 Section 2 of the Gambling Act provides that the following are licensing authorities in England:
- (i) a District Council,
 - (ii) a County Council for a County in which there are no District Councils,
 - (iii) a London Borough Council,
 - (iv) the Common Council of the City of London,
 - (v) the Council of the Isles of Scilly.
- 1.2 Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy every 3 years. It must be published by the 3rd January and in force by 31st January to ensure there is a 28 day period between publication and implementation. A copy of the proposed Policy for consultation is attached as **Appendix A**.
- 1.3 The Council last published its Gambling Policy in January 2016 and it remains in place until January 2019.
- 1.4 Section 154 of the Act provides that certain decisions are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003, except:

- A resolution not to issue casino licences, which must be taken by the whole authority. The Council have made a resolution that there will be no casinos in the authority area;
- Functions in relation to the Licensing Authority Statement of Policy, which must be taken by the whole authority. Once this policy is approved by the Licensing Committee it must be agreed by Full Council;
- Setting fees (to the extent that a licensing authority has delegated power in relation to fees) is the responsibility of the full council – the full council can delegate decisions to the licensing committee, but there is no automatic delegation, so each authority must decide its approach to setting fees.

1.5 Decisions that are delegated to a licensing committee may be further delegated to a subcommittee of the licensing committee, which may arrange for them to be taken by an officer of the authority.

However, the following decisions may not be made by an officer (ie they must be made by either the sub-committee or the licensing committee):

- Determination of an application for a premises licence where representations have been made and not withdrawn
- Determination of an application for variation of a premises licence where representations have been made and not withdrawn
- Determination of an application for transfer, following representations by the Commission
- Determination of an application for a provisional statement where representations have been made and not withdrawn
- Review of a premises licence.

1.6 Licensing authorities in England and Wales also have responsibilities under the Licensing Act 2003. There are some inter dependencies between the Licensing Act 2003 and the Gambling Act 2005 in terms of the framework for decision making and the procedures that must be followed. But licensing authorities must take care to ensure that in dealing with applications under the Gambling Act they follow the procedures that this Act requires and only take into account issues that are relevant to this Act. Particular care should be taken to distinguish Gambling Act considerations from those relevant to alcohol licensing, public entertainment or late night refreshment.

2. **Issues**

2.1 It is suggested that the updated draft policy be sent out for Consultation following the timetable detailed in section 3.2.

2.2 A number of amendments have been made to the Policy implemented in 2016. The main amendments are summarised below:

- The appendix relating to Gaming Machines, their stakes and prizes and location has been removed. This is under advice from the Gambling Commission as the information is subject to change and if it did so then a review of the Council Policy would be required;
- The local area profile section of the Policy (section 5) has been reduced. The Gambling Commission have advised that if a Council wishes to create a Local Area Profile it is best doing so as a separate 'live' document so it can be updated without the need to review the Policy and can readily address a change in circumstances of a particular area;

- The local risk assessments section of the Policy (section 4) has been improved to set down specific considerations that premises licence holders/applicants must include in their premises risk assessments. These risk assessments must be readily available at each premises for officers to inspect;
- A section on data protection (section 10) has been included to set out the Council position in respect of how we will process the data that we hold.

2.3 The legislation specifies certain groups and organisations that must be consulted regarding the revised policy under Section 349 (3) of the Gambling Act 2005:

- The Chief Officer of Police for the authority's area
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act

2.4 The legislation is however deliberately wide to enable Licensing Authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Licensing Authority Statement of Gambling Policy.

2.5 Licensing Authorities may wish to consider the following:

- Consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trust and advocacy agencies such as the Citizen's Advice Bureau and trade unions.
- Consultation with other tiers of local government where they exist.
- Consultation with businesses that are, or will be, holders of a premises licence
- Consultation with the organisations named as responsible authorities in the Act.

2.6 It is intended to advertise the consultation on the Council's website, on the Council's notice board, by writing to all elected members, Parish and Town Councils, and to the Consultees detailed in the list at page 2 of Appendix A. All current premises licence holders will also be sent a copy of the correspondence.

2.7 A list of groups and individuals can be consulted. Any further suggestions for potential Consultees are welcomed.

3. Options Considered

3.1 The Council have a statutory duty to consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005. It is requested that Members agree that the Policy detailed in Appendix A may be sent for consultation and brought back for consideration in line with the table below:

3.2 Timetable

31 st July 2018	Initial discussions at Licensing Committee. Approval is given to send the draft policy for consultation
6 th August 2016	Gambling Policy sent out for 10 week consultation (ends 12 th October 2018)
30 th October 2018	Meeting of Licensing Committee to discuss responses to the

	consultation and amend Policy as required. Approval is given to send to Full Council for agreement
21 st November 2018	Proposed Policy to be considered by Full Council
December 2018 (or in any case before 3 rd January 2019)	Publish the Policy
January 2019 (before 31 st)	Implement the new Policy

4. Recommendation

- 4.1 To receive the report
- 4.2 To approve the draft Gambling Policy for Newcastle-under-Lyme.
- 4.3 To approve the commencement of the 10 week consultation.
- 4.4 That any responses received to the consultation be considered by the Committee at the meeting to be held on 30th October 2018 and that recommendations of this Committee to be included in the final report to Full Council.
- 4.5 That the updated Policy be presented for approval to Full Council at its meeting on 21st November 2018 in order that the Policy is published prior to 3rd January 2019.

5. Decision Required

- 5.1. The Council have a statutory duty consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005.

6. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 6.1 The contents of this report relate to the following corporate priorities:
 - Creating a cleaner, safer and sustainable Borough
 - Creating a healthy and active community

7. Legal and Statutory Implications

- 7.1 The Council have a statutory duty consult on, publish and implement a Gambling Policy every 3 years as required by the Gambling Act 2005.

8. Earlier Cabinet/Committee Resolutions

- 8.1. No Casino Resolution in 2007.
- 8.2. To implement a Gambling Policy in 2016, 2013, 2010, 2007

9. Background Papers

- 11.1 The Council Gambling Policy 2016-2018