

Statutory Licensing Committee

Monday 7 October 2024

Review of the Council's Statement of Gambling Policy

Ordinary Decision



Report of Alan Patrickson Corporate Director of Neighbourhoods and Climate Change

Councillor John Shuttleworth, Cabinet Portfolio Holder for Rural Communities and Highways

Electoral division(s) affected: Countywide

Purpose of the Report

- 1 To seek agreement from Statutory Licensing Committee that the attached draft revised Statement of Gambling Principles (the gambling policy) be presented to Council for consideration and adoption in December 2024. The proposed draft policy is attached as Appendix 2.

Executive summary

- 2 Durham County Council is a licensing authority under the Gambling Act and is responsible for the licensing of a range of gambling activities and the premises where these activities take place. The Council's licensing responsibilities do not extend to virtual or remote gambling which is the responsibility of the Gambling Commission.
- 3 Licensing authorities are required to prepare and publish, every three years, a statement of the principles they propose to apply when exercising their functions under the Gambling Act 2005. The current gambling policy was adopted in January 2022. A new policy must be published no later than January 2025.
- 4 Approval and formal adoption of the gambling policy is not an executive function and, as such, requires full council consideration and agreement.
- 5 Consultation (on the existing policy and any proposed changes to it) was carried out in May and June 2024 and responses received have been incorporated into the draft new policy where appropriate.

Recommendation(s)

- 6 Licensing Committee considers this post consultation revised policy and agrees for it to be recommended to Council for adoption by the end of December 2024.

Background

- 7 Under the Gambling Act 2005, the Council is responsible for issuing premises licences for premises such as casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol-licensed premises.
8. The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and are:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
9. Licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies.
10. The current gambling policy was adopted in January 2022. A new policy must be published no later than January 2025.
11. In preparing a policy, licensing authorities must follow the procedures set out in the Act as well as the accompanying guidance.
12. Gambling policies are not an executive function and must be approved by full council before they can be adopted. It is planned that the revised policy will be taken to full council for approval in December 2024.
13. The gambling policy fulfils two principal purposes; firstly, it provides advice to businesses and the public on the Council's overall position regarding the Gambling Act 2005. Secondly, it provides a decision-making framework for the Council via its Licensing Committee to exercise its administrative and legal functions under the Act.
14. The policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. Failure to achieve the correct balance could lead to a policy being either, overly prescriptive and open to challenge, or alternatively, ineffective in the protection of residents

and others or through a failure to promote the licensing objectives effectively.

15. The proposed revised Gambling Policy reflects changes in legislation and Gambling Commission Guidance occurring within the previous three years. To enhance and support public protection, we have improved the current policy by providing more information and links to date for applicants needing to carry out local risk assessments as part of the application process. We have also included other links to public health data and information which may be of use and interest to applicants and others.

16. Consultation

17. The legislation provides licensing authorities with guidance on those organisations and bodies that must be consulted as part of a policy review. In addition to the statutory consultees, several other individuals, agencies, and organisations considered to be affected by the policy were identified and their comments invited. We undertook to make direct contact with all existing gambling licensees within in the County to obtain their views.
18. The public consultation took place between Monday 6th May and Sunday 16th June 2024 and was widely advertised, promoted and available to all on the Council's website. At the end of the consultation period, responses were collated and appraised leading to the production of the attached draft policy.
19. Three responses were received and are included in Appendix 3 to this report. The proposed amendments to the policy resulting from the consultation and review process are listed in Appendix 4 *Table of Changes* to this report and are included in the revised policy.
20. In summary, GamCare's submission was supportive but included some aspects that go beyond what may be reasonably included in a gambling policy - advocating a public health approach towards gambling licensing. Whilst public health is not a licensing objective under the Act, relevant public health information and links to health and gambling harm have been included in Appendix 5 of the revised policy.
21. The Police and Crime Commissioner's response also advocated for a public health approach to gambling licensing. The full PCC submission, with a more detailed licensing response, is provided in Appendix 3 to this report.
22. Novomatic UK's response on behalf of Luxury Leisure and Talarius covered a range of minor administrative issues.

Main implications

23. A failure to review, revise and update the Council's Gambling Act Policy would result in the expiry of the existing policy with no replacement. This would result in the Council's inability to properly administer, manage and regulate the Gambling Act licensing process. The council would be open to charges of maladministration and to legal challenges.

Conclusion

- 24 The proposed revised Gambling Policy reflects changes in legislation and Gambling Commission Guidance. It also contains information to assist applicants to risk assess areas where the gambling premises will operate. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.
- 25 Licensing Committee's acceptance of this report's recommendations will allow the policy to be reported to Council with a view to its adoption by January 2025.

Background papers

- Durham County Council's Gambling Act 2005 current Statement of Principles.
- Gambling Commissions Guidance to licensing authorities – Published 1 April 2021, last updated 11 April 2023

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Appendix 1: Implications

Legal Implications

The statement of Gambling policy must be right. If an appeal concludes it is deficient, Magistrates can declare it illegal. Matters already concluded or ongoing will be lost as the decisions were based on a defective document. Furthermore, a gambling policy can be subject to a judicial review.

Finance

The costs of consultation and publication of the revised policy will be met from existing budgets. The report has no value for money implications.

Consultation

A full public consultation process will be undertaken in respect of the review of this policy. The 3-yearly review of the Gambling Act Policy is subject to Government Guidance which prescribes the statutory consultees who must be included in policy consultation. In addition to the statutory consultees, other relevant local, regional, and national bodies and organisations have been identified and are consulted in relation to policy revision.

Equality and Diversity / Public Sector Equality Duty

An Equality and Diversity Impact Assessment (DIA) was carried out in relation to previous versions of the existing revised policy and a revised EIA will be developed throughout the planning and development stages of the consultation and revision process.

Human Rights

None

Crime and Disorder

The Council's licensing policies form a central part of the control and regulation of the evening and night-time economies. As such, they can be viewed as having a pivotal role in the prevention of crime and disorder.

The effective control of all gambling licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for any gambling related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

Staffing

None

Accommodation

None

Risk

A failure to review, revise and update the Council's Gambling Act licensing policy would result in the expiry of the existing policy with no replacement. This would result in the Council's inability to properly administer, manage and regulate the GA 2005 licensing process. This would result in unacceptable deficiencies in safeguarding and would expose the public to serious risks. Public safety would be compromised. The council would be open to charges of maladministration and to legal challenges.

The final revised policy once adopted may be subject to challenge and complaint.

Procurement

None

Appendix 2: DCC Revised Gambling Act 2005 Statement of Principles 2025 to 2028 (Proposal)

Appendix 3: Responses to the consultation received by DCC Licensing Services

1. GamCare's response to Durham County Council's Statement of Principles received Tuesday, May 28, 2024, 11:32 AM
2. Police and Crime Commissioner Joy Allen response to Durham County Council's Statement of Principles received Friday, June 7, 2024, 9:20 AM
3. Novomatic UK response to Durham County Council's Statement of Principles received Friday, June 7, 2024, 3:50 PM

Appendix 4: Table of Changes - The proposed amendments to the policy resulting from the consultation and review process.

Section and pages	Recommended Change
Title page 1	Departmental name, dates and Act reference
Version control page 2	Version date, information contact details and accessibility
Forward page 3	Removed the reference to Cllr Shuttleworth and replaced with Cllr Brown
Contents pages 6	New format and contents reflecting additional sections
1.0 Introduction pages 8	Approval and adoption date to be added following Council meeting
2.0 Part A The Gambling Act 2005 pages 10	Updated description of Co Durham population statistics
3.0 Part B – Promotion of the licensing objectives pages 22 to 23	Removal of unnecessary reference to the Care Act 2014
4.0 Part C Premises Licences Page 27 Page 32 Page 33 Page 35 Page 41	Modification of information concerning applications for unbuilt or incomplete buildings. Gambling harm prevalence tool provided by Gamble Aware to protect those key socio-demographic groups and locations that have been identified as being at risk. Licence holders should consider local area awareness training for the staff to mitigating the risk to communities as highlighted in the statement of principles. Removal of out-of-date information on main activity following updates from the Gambling Commission. The Council recognises the legal requirement that conditions should be both reasonable and necessary. The list of possible measures/conditions set out for AGCs is also applicable to betting premises.
6.0 Part E Enforcement pages Page 61	The Council can also initiate a review of a licence based on any reason which it thinks is appropriate. In connection with both reviews and appeals, the Council may consider the information and intelligence received either by the council or partners which may link the establishment to the requirements of this statement of principles
Page 70, Useful Contacts	Contact information for HMRC and NECA
Appendix 4 Summary of Gaming Machine Categories and Entitlements page 71	Latest information from the Gambling Commission reformatted and represented.
Appendix 5 – Public Health Information	New, updated public health related information, recommendations advice and links.

Appendix 5: Updated EqIA Screening Report
