

Statutory Licensing Committee

20 December 2012



Review of the Council's Statement of Gambling Policy

Report of Corporate Management Team

Terry Collins, Corporate Director, Neighbourhood Services

Councillor Bob Young, Cabinet Portfolio Member for Strategic Environment and Leisure

Purpose of the Report

1. This report seeks Committee's approval of the recently reviewed and revised Gambling Act 2005 Policy, known as the 'Statement of Principles' and recommends the revised version of this policy for adoption by Council. This will enable the Council to continue to make decisions when exercising its responsibilities under the Gambling Act 2005.

Background

- 2 The Gambling Act 2005 has many similarities to the Licensing Act 2003. In 2007, the responsibility for the licensing of gaming premises was transferred from the Magistrates to Local Authorities and introduced for the first time, a unified regulator for gambling, the Gambling Commission.
3. 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.
- 4 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;

5. 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. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. A review of the current statement of principles was therefore required to be undertaken to enable the revision and re-publication of this policy document by January 2013.
6. The 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 quasi-judicial functions under the Act, as such, 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 local residents or through a failure to promote the licensing objectives effectively.
7. The draft, revised policy attached at appendix 2 was produced by officers following the review process incorporates new and amended legislation, guidance and reflects good practice.

Consultation

8. Between 7th September and 30th November 2012 a public consultation exercise on the current statement of principles was conducted. In accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation. Twelve weeks were allocated for the consultation and for the return of responses.
9. The legislation provides the licensing authority with guidance on those organisations and bodies that the Council must consult with as part of the review. In addition to the statutory consultees, many 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.
10. The draft policy was widely advertised in the local and regional press. It also appeared on the Council's website, where e-mail responses were invited.
11. At the culmination of the consultation exercise, three responses had been received. These responses are attached at Appendix 3.
12. The Statutory Licensing Committee will be asked to consider the outcome of the consultation exercise with a view to recommending the

adoption the amendments and a revised version of the statement of principles.

Conclusion

9. The three responses to the consultation have not resulted in any changes to the draft policy. Only minor amendments have been made to the former Statement of Principles as a result of administrative changes and some alterations to the policy template provided by Government. A copy of the final draft revised policy is attached in Appendix 2.

Recommendations

10. That consideration is given to the consultation responses and content of the final draft statement of principles.
11. That Council agree to the adoption of the final draft statement of gambling policy.

Background Papers

Durham County Council's Gambling Act 2005 current Statement of Principles.

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Appendix 1: Implications

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.

Staffing

None

Equality and Diversity

An Equality and Diversity Impact Assessment (DIA) was carried out in the planning stages of this consultation.

Accommodation

None

Crime and Disorder

The Council's licensing policy forms a central part of the control and regulation of the evening and night time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder.

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol 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.

Human Rights

None

Consultation

The 3 yearly review of the Licensing 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.

Procurement

None

Disability Discrimination Act

None

Legal Implications

The statement of licensing 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 licensing policy can be subject to a judicial review.