

County Council

6 December 2016



Review of the Council's Statement of Gambling Policy

**Report of Joanne Waller, Head of Environment, Health and Consumer
Protection**

**Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships**

Purpose of the Report

1. The purpose of this report is for Council to consider a Statement of Principles (Gambling Policy) for 2016 – 2019 in accordance with the Gambling Act 2005. Once adopted, the revised policy will enable the Council to continue to make decisions when exercising its responsibilities as the Licensing Authority under the Gambling Act 2005 for the next three years. The revised version is provided in Appendix 5.

Background

2. Under the Gambling Act 2005, the Council is responsible for issuing premises licences for 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.
3. 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;
4. 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.
5. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The last review leading to the adoption of the current statement of principles was undertaken in 2012. This enabled the current policy document to be

adopted on the 9th January 2013. This is attached at Appendix 2. At the time of adoption it incorporated all relevant and amended legislation, guidance and reflected good practice.

6. 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 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 Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.
8. From 6th April 2016 the Gambling Commission's LCCP required gambling premises operators to undertake a risk assessment taking into consideration their local information. Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Operators will be expected to have policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's statement of policy.
9. Guidance states that where a licensing authority's statement of policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.
10. The government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines.
11. It is appropriate that these matters are incorporated into the revised Gambling Policy. The revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance.

Consultation

12. A 12-week public consultation exercise on the current statement of principles and proposals amendments took place between 4th July and 26th September 2016. This consultation was conducted in accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation.
13. The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult with as part of a

review. In addition to the statutory consultees, a number of other individuals, agencies and organisations considered to be affected by the policy were identified and their comments were invited. We made direct contact with all existing Gambling licensees within in the County in an attempt to obtain their views.

14. The draft policy was widely advertised in the local press and it appeared on the Council's website, where e-mail responses were invited. However, despite the lengthy consultation period and the comprehensive consultation methods used by the Council, only one response was received. See Appendix 3. A table of changes highlighting the revisions is shown in Appendix 4.
15. Following the consultation process the General Licensing and Registration Committee was asked to consider the outcome of the consultation exercise and the draft revision with a view to recommending to Council the adoption any amendments and a revised version of the policy. This committee considered the report detailing the proposed policy on Monday 14th November 2016 at which time the report was agreed without any amendments.

Conclusion

16. The gambling policy has been reviewed in accordance with the Gambling Act 2005 which requires Licensing Authorities to prepare a Statement of Principles on a three year cyclical basis. The proposed revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.

Recommendations

17. That consideration is given to the proposed revised statement of principles attached in Appendix 5.
18. That Council agrees to adopt the revised proposed statement of principles following the agreement and recommendation of the General Licensing and Registration Committee.

Background Papers

- Durham County Council's Gambling Act 2005 current Statement of Principles.
- Gambling Commissions Guidance to licensing authorities - 5th edition September 2015

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. There are no additional financial implications arising from this report.

Staffing

None - There are no human resources implications from the recommended options.

Equality and Diversity

An Equality and Impact Assessment (EQIA) has been completed on this Policy and has indicated a neutral impact.

Accommodation

None - There are no property implications from the recommended options.

Crime and Disorder

The Council's licensing policy forms a central part of the control and regulation of gambling premises. As such, it can be viewed as having a pivotal role in achieving the three objectives, namely

- 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

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for gambling to be a source of crime and disorder. 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

There are no human rights implications from the recommended options

Consultation

The 3 yearly review of the Gambling Act Statement of Principles 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.