

General Licensing and Registration Committee

14 November 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

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.

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.

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.

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.

The government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines.

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

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.

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.

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.

Following the consultation process and approval by AHSMT, and CMT, 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

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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. 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.~~

Appendix 2

DCC Gambling Act 2005 Statement of Principles 2013 to 2016

Appendix 3 — Consultation Response Report

Table of Changes

Appendix Gambling Act 2005 Statement of Principles Revision -Table of Changes

No	Page/Paragraph	Change	Reason	Comments
1	Cover page 1	Directorate name change	Change in Directorate	Corporate reorganisation
2	Page 2	Addition to version table	Document control purposes	DCC Policy Controls
3	Page 3	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
4	Page 4	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
5	Part A	Rearrangement of content to show introduction before licensing objectives	Provides a more logical format	Better, more logical arrangement of text
6	Introduction	Changes to layout and formatting of paragraphs	Provides greater clarity and a more logical format	Better, more logical arrangement of text
7		Changes to dates for consultation and adoption	To reflect the recent consultation and to allow for new adoption dates	New dates reflecting recent consultation, revision and adoption dates
8	Licensing Objectives Page 5	Changes to text and additional information on licensing objectives	To give greater clarity and explanation	To give greater clarity and explanation
9	Interested parties page 8	Alterations to text formatting and additional information regarding which organisations and individuals will be deemed to represent those who live sufficiently close to the premises to be likely to be affected	Provides greater clarity, additional information and a more logical format. Inclusion of reference to disclosure of details of persons making representations to applications	Better, more logical arrangement of text together with additional information on in connection with the representation of interested parties by others and information disclosure.

		by the authorised activities.		
10	Exchange of information page 9	Changes to text and additional information regarding information disclosure for interested parties	To give greater clarity and explanation	To give greater clarity and explanation
11	Enforcement page 10	Changes to text and additional information regarding Primary Authority Schemes. Inclusion of a reference to the Licensing Authority seeking guidance from Primary Authorities prior to taking enforcement action	New inclusion to show how DCC would interact with other authorities under the Primary authority scheme should that be relevant to any premises licensed by DCC	To give greater clarity and more detailed explanation
12	Licensing Authority Functions page 11	Changes to text and additional information regarding the delegation of functions under current constitutional arrangements	Extra information on delegations	To give greater clarity and more detailed explanation
13	Part B General Principles page 12	Changes to text and additional information regarding the issuing of premises licenses and important reference to the guidance issued by the Gambling Commission	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation
14	Part B General Principles page 12	Changes to text and additional information regarding the location of gambling premises and the new requirements regarding local risk	New requirements. Additional information regarding premises licenses issued by the Council and the importance of	New requirements under the Act/approved guidance. To give greater clarity and more detailed explanation.

		<p>assessments. 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.</p> <p>From 6th April 2016 the Gambling Commission's LCCP require gambling premises operators to undertake a risk assessment taking into consideration their local information</p> <p>Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises.</p> <p>Operators will be expected to have policies, procedures and control measures in place to mitigate those risks.</p>	relevant guidance	
15	Decision making page 12	Changes to text and additional, explanatory information regarding conditions and control measures to provide applicants and current licence holders with greater	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation

		clarification, information, guidance and explanation.		
16	Betting Premises page 23	Statement and information regarding FOBTs and the reporting of damage by customers to aid in the assessment of crime and disorder in relation to the use of these gaming machines within the county	Additional information regarding FOBTs to support the prevention of crime and disorder	The prevention of crime and disorder
17	Annex 1 Delegation of functions by licensing authority. Amendment of table	Option for operators to request a hearing in cases involving the cancellation of club gaming/club machine permits and the cancellation of licensed premises gaming machine permits. Also, change in connection with the decision to give a counter notice to a temporary use notice	Provide additional options for democratic decision making	Increased transparency and choice for operators
18	Annexe 3 – addition of table showing <i>Summary of Gaming Machine Categories and Entitlements</i>	Addition of table relating to gaming machine entitlements taking into account the increase of stakes and prizes in respect of certain categories of machines, as implemented by the DCMS	To provide additional information, explanation and guidance to operators and applicants	To provide additional information, explanation and guidance to operators and applicants