

North Tyneside Council

Report to Cabinet

Date: 14 May 2018

ITEM 5(a)

Title: The Gambling Act 2005 –
Draft Statement of Licensing
Policy (Gambling) 2019 -
2022

Portfolio: Housing and Transport

Cabinet Member: Councillor John Harrison

Report from Service Area: Environment, Housing and Leisure

Responsible Officers: Phil Scott (Tel: 643 7295)
Head of Environment, Housing and Leisure

Wards affected: All

PART 1

1.1 Executive Summary:

Local authorities are required by the Gambling Act 2005 (“the Act”) to publish a Statement of Licensing Policy and to revise the Policy at least every three years. The Statement of Licensing Policy provides guidance as to how the Authority will exercise its functions under the Act and is therefore an important document which must be consulted on before it can be approved by the Authority. The Policy has proved to be a vital part of the licensing of gambling activities and has had a positive impact on licensing. This report outlines the initial proposals to Cabinet for the formulation and subsequent formal approval of the Policy, which forms part of the Authority’s Budget and Policy Framework. There have been two changes, one placing greater emphasis on the risks around Child Sexual Exploitation and the other the inclusion of a template for Local Risk Assessment.

1.2 Recommendation(s):

It is recommended that the Cabinet approve the initial proposals of the draft Statement of Licensing Policy (Gambling), attached at **Appendix 1** to this report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 26 March 2018.

1.4 Council Plan and policy framework:

This report relates to the following priorities in the **2018-20 Our North Tyneside Plan**:

Our Places will:

- Provide a clean, green, healthy, attractive, safe and sustainable environment

- Our People will: be healthy and well

Our Economy will

- Grow by supporting new businesses and building on our strengths

The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended specifies that the Policy Statement is to be the shared responsibility of the Council and the Executive. Accordingly, the Policy Statement forms part of the Authority's Policy Framework and this initial report is submitted to Cabinet in pursuance of the established process under Part 4.7 of the Constitution to be followed in relation to the formulation and approval of plans and strategies comprised in the Policy Framework.

1.5 Information:

1.5.1 The Gambling Act 2005 ("the Act") gives responsibility for the granting of premises licences and permits to local authorities who act as licensing authorities when discharging functions under the Act.

1.5.2 The Act established a regulatory body for gambling in Great Britain, namely, the Gambling Commission (the "Commission"). The Commission shares the responsibility for licensing and regulation under the Act with the Licensing Authorities. The Commission has been responsible for issuing statutory guidance to Licensing Authorities as to how to exercise their functions under the Act (including the compilation of a Statement of Licensing Policy) and has issued Codes of Practice to the gambling trade.

1.5.3 The administration of the Act by both the Commission and Licensing Authorities has to be in such a manner as to promote the three licensing objectives laid down by the Act, which are:-

- Preventing crime from being a source of crime and disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protection of children and other vulnerable persons from being harmed or exploited by gambling.

1.5.4 The Authority is required to produce and publish a Statement of Licensing Policy under the Act and the initial Policy came into force on 31 January 2007 and has been reviewed and where necessary amended every three years thereafter.

1.5.5 The revised Statement of Licensing Policy (Gambling) must be in force by 31 January 2019 when the existing Policy will expire. The three year period for each Policy runs from 31 January as determined by the Gambling Act 2005 (Licensing Authority Policy Statement)(First Appointed Day) Order 2006.

1.5.6 Under the Act, the Authority as a licensing authority is responsible for issuing Premises Licences and Permits. Premises Licences are specific to the type of premises offering gambling to the public and include:-

- Casino Premises
- Bingo premises
- Adult Gaming Centre Premises
- Family Entertainment Centre Premises

- Betting Premises

1.5.7 This Authority does not have the authority from the Secretary of State to issue Casino Premises Licences. Section 175 of the Act limits the overall numbers of types of casinos that will be permitted in Great Britain and, until such time as the current limit on the number of casinos is increased, no further Casino Premises Licences will be issued.

1.5.8 In terms of Permits, the Authority as a licensing authority can issue the following types of permit:-

- Unlicensed Family Entertainment Centre Gaming Machine Permit
- Club Gaming Permit
- Club Machine Permit
- Alcohol Licensed Premises Gaming Machine Permits
- Prize gaming Permits.

1.5.9 Section 153 of the Act sets out the principles to be applied by the Authority as Licensing Authority when considering an application for a Premises Licence. It states:-

(1) In exercising their functions under this Part [of the Act] a Licensing Authority shall aim to permit the use of the premises for gambling in so far as the authority think it –

(a) in accordance with any relevant code of practice [issued by the Gambling Commission]

(b) in accordance with any relevant guidance issued by the Commission under Section 25

(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b), and

(d) in accordance with the Statement [of Policy] published by the authority under section section 349 (subject to paragraphs (a) to (c))'

Section 153(1)(d) of the Act therefore emphasises the importance of the Authority's Statement of Licensing Policy (Gambling) in determining any application for a Premises Licence made to the Authority as Licensing Authority.

1.5.10 The draft revised Statement of Licensing Policy (Gambling) attached to this Report at **Appendix 1** contains the information that The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006 have prescribed should be included in the policy document. Such information includes:-

(a) an introductory section that should include:-

- a description of the geographical area in respect of which the authority exercises its functions under the Act, and
- a list of persons that the authority has consulted in preparing the statement.

(b) the following matters in separate sections of the policy statement:-

- the principles to be applied by the authority in designating in writing the body which is competent to advise the authority about the protection of children from harm
- the principles applied by the authority in determining whether a person is an interested party in relation to a premises licence application
- the principles to be applied by the authority in the exchange of information between it and the Gambling Commission and other bodies listed in the Act
- the principles to be applied by the authority in relation to the inspection of premises and investigating criminal proceedings under the Act.

1.5.11 Council on 19 November 2015 passed a ‘no casino’ resolution which meant that the Authority would not grant any Casino Premises Licences in the Borough if it was given the power to do so. This resolution remains in place for the duration of the Policy, even if the number of national Casino licences increase (see section 1.5.8 of this report).

The decision whether or not to pass a further ‘no casino’ resolution will form part of the consultation process concerning the revision of the Licensing Policy. If Council passes a ‘no casino’ resolution, then it will bind the Authority for a further three years (unless another resolution is passed in the interim) and will prohibit the Authority from issuing Casino Premises Licences in that period.

1.5.12 In preparing this draft revised Policy document, regard has been had to the Commission’s statutory guidance and the Regulations issued in order to assist Licensing Authorities in the preparation of their policy statements.

The draft revised Policy statement includes the following additions:

- Reference to the new Council Plan
- New section on Child Sexual Exploitation awareness and information on safeguarding policies
- New responsible authority added for vessels
- New Local Risk Assessment template attached
- Updated website information.

1.5.13 The draft revised Policy will be subject to a six week period of public consultation that will begin on 1 June 2018. The six week period of consultation is considered an appropriate period of time to consult on this Policy document. A list of the consultees will appear in the Policy document.

The draft revised Policy statement once approved must be published at least 4 weeks before it comes into effect (31 January 2019) and be available for inspection on the Authority’s website, public libraries and Quadrant. Before the Policy comes into effect the Authority must also advertise the publication of the Policy statement by publishing a public notice on the Authority’s website and in a local newspaper indicating when the Policy will be published and when it comes into effect.

1.6 Decision Options:

The following decision options are available for consideration by Cabinet:

Option 1

Endorse the initial proposals for the draft revised Policy statement in its current form, subject to any further amendments following consultation.

Option 2

Not endorse the initial proposals for the draft revised Policy statement.

Option 1 is the recommended option.

1.7 Reasons for Recommended option:

Option 1 is recommended for the following reasons:

The revised draft Policy has been developed by an Officer Working Group. The Policy contains the information required by legislation and the Gambling Commission. It will be subject to extensive consultation involving, in addition to members of the public, those involved in the gambling trade, all North Tyneside MPs, MEPs and Councillors. All consultees will be given the opportunity of providing feedback and comments on the draft Policy during the consultation period.

1.8 Appendices:

Appendix 1 – Draft Revised Statement of Licensing Policy (Gambling)

1.9 Contact Officers:

Phil Scott, Head of Environment, Housing and Leisure, Tel: (0191) 643 7295

Joanne Lee, Public Protection Manager, Tel: (0191) 643 6901

Colin MacDonald, Senior Manager, Technical & Regulatory Services,
Tel: (0191) 643 6620

Dawn Frankland, Senior Licensing Officer, Tel: (0191) 643 6902

Alison Campbell, Financial Business Manager, Tel: (0191) 643 7038

John Barton, Lawyer, Tel: (0191) 643 5354

1.10 Background Information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author.

- Gambling Act 2005
<https://www.legislation.gov.uk/ukpga/2005/19/contents>
- Gambling Commission's Guidance issued under section 25 of the Gambling Act 2005
<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>
- The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006
<http://www.legislation.gov.uk/uksi/2006/636/contents/made>
- The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended)
<https://www.legislation.gov.uk/uksi/2000/2853/contents/made>
- Equality Impact Assessment

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

There are no financial implications arising from the report. The costs of preparing the revised Statement of Licensing Policy (Gambling) and the associated consultation arrangements can be met from the existing revenue budget.

2.2 Legal:

The Authority is required to produce and publish a Statement of Licensing Policy under the Gambling Act 2005. This statement must be reviewed, and if necessary revised, every three years. This new draft Policy must be brought into effect by 31 January 2019. The revised Policy must however be formally approved by Council before December 2018 to enable the revised Policy to be publicly advertised at least 4 weeks prior to the date it comes into effect.

It is clear that the Statement of Licensing Policy (Gambling) is to be the shared responsibility of the Council and the Executive. The Policy will form part of the Authority's Policy Framework and this initial report is submitted to Cabinet in pursuance of the established process under Part 4.7 of the Constitution to be followed in relation to the formulation and approval of plans and strategies comprised in the Policy Framework.

2.3 Consultation/Community Engagement:

2.3.1 Internal Consultation

The content of this draft Statement of Licensing Policy (Gambling) is driven by statutory requirements. Consultation with Members provides a key element to the formulation of the Policy. Members will be advised in that the Policy is being consulted upon. The Timetable for the consultation and the approval of the Policy, having regard to the Constitution, is as follows:-

Cabinet – 14 May 2018 – Presentation of initial proposals

Overview, Scrutiny and Policy Development Committee – June 2018 – Presentation of initial proposals

Cabinet – 15 October 2018 – Presentation of final proposals

Council – 22 November 2018 – Presentation of final proposals

Officers are available to discuss the draft Policy Statement in detail at the request of any Member.

2.3.2 External Consultation

As previously stated, the draft Policy will be widely consulted upon. Members of the public, the gambling trade, North Tyneside MPs and MEPs will all have an opportunity of commenting on the draft revised Policy statement. The 6 week consultation period will commence on 1 June 2018. Notice of this consultation will be given through a press

release and copies of the draft Policy statement will be made available on the North Tyneside Council website.

2.4 Human Rights:

There are aspects of the administration of the Gambling Act 2005 that may impact on the human rights of individuals residing in the Borough and licence holders. Article 8 of the European Convention of Human Rights entitles a person to the right to enjoy a private and family life. However, unlike the Licensing Act 2003, there is no licensing objective relating to gambling dealing with the prevention of public nuisance. If there is an issue with nuisance being generated by a gambling establishment, it may be something that a Licensing Committee/Sub-Committee may be able to consider in determining an application. However, it may be more appropriate for such issues to be dealt with by environmental protection legislation.

Article 6 of the European Convention also entitles an individual to a fair hearing. Any individual appearing before a licensing sub-committee under the Gambling Act will be given an opportunity to express their views as provided by the Act.

Article 1 of the First Protocol entitles a person to the peaceful enjoyment of his possessions. A possession may include a licence or the goodwill that such a Licence would generate. However, balanced against that is the ability of the Licensing Authority to enforce such laws under the Act as is necessary to control the use of such property, including a licence.

2.5 Equalities and Diversity:

The Authority will ensure that all persons, groups and organisations wishing to take part in the consultation process has an equal opportunity to participate. Any decision taken under the Act should not in any way discriminate against any person, group or society. An Equality Impact Assessment is in place for the review of the Gambling Policy. Actions as a result of the EIA were to ensure that all staff are aware of access to an interpretation service and the availability to request documents in different formats and languages.

2.6 Risk Management:

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

2.7 Crime and Disorder:

One of the three licensing objectives contained within the Gambling Act 2005 is the prevention of gambling from being a source of crime or disorder, or being used to support crime. Any decision that the Authority takes as a Licensing Authority will have to have regard to this licensing objective. The police will also be notified of every application for a premises licence so that they have an opportunity of visiting premises and making a comment on the application.

2.8 Environment and Sustainability:

There are no direct implications for environment and sustainability arising from this report.

PART 3 – SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X