

TITLE OF REPORT: ADOPTION OF A STATEMENT OF LICENSING PRINCIPLES FOR THE PERIOD 2016–2018 REQUIRED BY VIRTUE OF SECTION 349 OF THE GAMBLING ACT 2005

REPORT OF THE HEAD OF HOUSING AND PUBLIC PROTECTION
EXECUTIVE MEMBER: COUNCILLOR BERNARD LOVEWELL

1. SUMMARY

- 1.1 The purpose of this report is for the Licensing and Appeals Committee to consider the draft Statement of Principles (“the policy”) prepared by officers and any public consultation responses in order to recommend the adoption of a Statement of Licensing Principles to Full Council.

2. RECOMMENDATIONS

- 2.1 That the proposed Statement of Licensing Principles in respect of the Gambling Act 2005, as attached at Appendix A to the report, be supported by the Licensing and Appeals Committee.
- 2.2 That the Licensing and Appeals Committee recommend the adoption of the Statement of Licensing Principles to Full Council.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Licensing authorities are required to publish a policy every three years by virtue of section 349 of the Gambling Act 2005 (“the Act”).
- 3.2 A new policy must be published by 3 January 2016 to comply with this statutory requirement.
- 3.3 The proposed policy builds on the success of the previous and existing versions of the policy, whilst reflecting minor legislative changes and revised Statutory Guidance to Licensing Authorities issued by the Gambling Commission (“the Statutory Guidance”).

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The only alternative option would be a policy that differs in content and/or extent.
- 4.2 An alternative policy has not been considered as the proposed policy strikes a balance between the minimum requirements to ensure the promotion of the licensing objectives whilst not being overly prescriptive or open to judicial challenge.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Executive Member for Housing and Environmental Health has been kept informed throughout the drafting of the policy and the public consultation process.

- 5.2 An information note was published in the Members Information Service at the commencement of the consultation period inviting all Councillors to participate in the consultation process.
- 5.3 The Act requires the licensing authority to consult with a prescribed group of persons (see paragraph 9.1 of the report).
- 5.4 To comply with these requirements, the licensing authority published its proposed policy on a dedicated webpage on the council's website with details of the consultation period and an explanation of how to make a representation.
- 5.5 All responsible authorities under the Act, existing premises licence, permit and registration holders, gambling trade associations and neighbouring authorities were sent a consultation letter directing them to the consultation page on the council's website.
- 5.6 The police, the fire authority and NHDC environmental health submitted responses supporting the proposed policy.
- 5.7 Detailed responses were received from the Campaign for Fairer Gambling, the Association of British Bookmakers Ltd and Coral. The responses are summarised in Appendix B, addressed in section 8 of the report and published in full in Appendix C.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 16 February 2015.

7. BACKGROUND

- 7.1 The licensing of gambling was previously regulated by the Gaming Board for Great Britain until the introduction of the Gambling Act 2005 with effect from 1 September 2007. Prior to this transfer, the local authorities' only responsibility in respect of gambling was the regulation of small society lotteries through a local registration scheme. For the purpose of undertaking its responsibilities under the Act, the Council are acting as the licensing authority for North Hertfordshire.
- 7.2 The Act transferred the overall regulation of gambling to the Gambling Commission with local authorities acting as the licensing authorities and having responsibility for a variety of licensing functions in respect of gambling premises such as casinos, bingo halls, betting shops, track betting and amusement arcades.
- 7.3 In preparation for this new responsibility, local authorities had to publish a policy by 3 January 2007 in accordance with section 349 of the Act. The Act requires the policy to be kept under regular review and formally reviewed by way of public consultation, including adoption by Full Council, every three years. The policy was last adopted with effect from 3 January 2013 therefore the statutory three year period expires on 2 January 2016.
- 7.4 The policy seeks to strike a balance between the interests of licence holders, applicants and residents in the promotion of the licensing objectives defined by the Act. Additionally, it outlines the licensing authority's expectations of licence holders in promoting the licensing objectives, whilst advising on the licensing authority's

obligations under the Act, including its interpretation of the Act and/or Statutory Guidance where necessary.

- 7.5 It is the licensing authority's intention that the policy offers appropriate protection for residents and a streamlined approach to regulation that eases unnecessary burdens on businesses.

8. ISSUES

Existing policy

- 8.1 It was felt that in general terms that the existing policy is working well, therefore, no significant changes were proposed in respect of content. The policy has been updated to reflect the minor legislative changes and the revised Statutory Guidance issued since its adoption.

Local Area Risk Assessments (LARA)

- 8.2 The licensing authority is fully supportive of the need for LARAs with all new applications and has included a paragraph referencing the importance of these documents. It is pleasing to see that both Coral and the Association of British Bookmakers Ltd are fully supportive of the LARA concept.

Safeguarding against child sexual exploitation (CSE)

- 8.3 Licensing authorities have an important role to play in safeguarding against child sexual exploitation. The proposed policy includes a specific section advising applicants and licence holders of their responsibilities which form an integral part of the protection of children from harm licensing objective. The policy includes link to the Hertfordshire Safeguarding Children Board's website that has a range of useful guides for different aspects of the licensed trade.

Campaign for Fairer Gambling

- 8.4 Appendices B and C make reference to an email received by the Leader of the Council in relation to a national campaign to lower the maximum stake for fixed odds betting terminals in betting shops. Maximum stakes are set by secondary legislation under the Act therefore it was not felt necessary to reference a national campaign within the policy. The committee may wish to give further consideration to the merits or otherwise of the campaign and, if deemed appropriate, consider how best to support this campaign.

9. LEGAL IMPLICATIONS

- 9.1 In preparing the policy, the licensing authority must publish any proposed policy before giving it effect and must consult with:

- the chief officer of police for the licensing authority's area
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act

- 9.2 The Act specifies that licensing authorities shall aim to permit the use of premises for gambling in so far as the authority thinks it:
- in accordance with any relevant code of practice issued under section 24 of the Act
 - in accordance with any relevant guidance issued by The Gambling Commission under section 25 of the Act
 - reasonably consistent with the licensing objectives (subject to the above)
 - in accordance with the Statement of Licensing Principles (subject to the above)
- 9.3 The licensing authority may only depart from its policy on an individual application where it is necessary to promote the licensing objectives and to comply with the requirements of paragraph 9.2 above. Departing from the policy for any other reason exposes the licensing authority to the possibility of legal challenge.
- 9.4 The policy must support the Act and always seek to promote the three licensing objectives specified therein:
- preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
 - ensuring that gambling is conducted in a fair and open way
 - protecting children and other vulnerable persons from being harmed or exploited by gambling
- 9.5 Under the Constitution, the terms of reference of the Licensing and Appeals Committee states that the committee is able to consider all licensing matters. As specified in the Act, adoption of the policy is reserved for Full Council. The terms of reference for Full Council include approving and adopting a Statement of Licensing Principles under the Gambling Act 2005.

10. FINANCIAL IMPLICATIONS

- 10.1 Local authorities have the ability to set their own local fees for the Act on a cost recovery only basis, subject to centrally prescribed maximum amounts. The administration of the Act should therefore place no additional financial burden on licensing authorities and this is kept under review by three-yearly costing exercises as previously reported to the Licensing and Appeals Committee.
- 10.2 This policy will not place any new financial resource implications on the licensing authority.

11. RISK IMPLICATIONS

- 11.1 If a policy is not published by 3 January 2016 in accordance with section 349 of the Act, the licensing authority would be at risk of a judicial review. Equally, an unlawful policy would offer the same risk.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1 October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5 April 2011. There is a general duty, described in paragraph 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

- 12.2 In line with the Public Sector Equality Duty, public bodies must, in exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The proposed policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met, for example, guidance notes could be provided in other languages upon request.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in section 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 The policy will not place any new human resource implications on the licensing authority.

15. APPENDICES

- 15.1 Appendix A - Proposed Statement of Licensing Principles.
15.2 Appendix B - Summary of consultation responses.
15.3 Appendix C - Consultation responses.

16. CONTACT OFFICERS

Report author

- 16.1 Steve Cobb Licensing Manager
01462 474833 steven.cobb@north-herts.gov.uk

Contributors

- 16.2 James Ellis Advisory & Litigation Solicitor
01462 474319 james.ellis@north-herts.gov.uk
- 16.3 Fiona Timms Performance and Risk Manager
01462 474251 fiona.timms@north-herts.gov.uk
- 16.4 Kerry Shorrocks Corporate HR Manager
01462 474224 kerry.shorrocks@north-herts.gov.uk
- 16.5 Jodie Penfold Group Accountant
01462 474332 jodie.penfold@north-herts.gov.uk
- 16.6 Liz Green Head of Policy and Community Services
01462 474230 liz.green@north-herts.gov.uk

17. BACKGROUND PAPERS

17.1 [Gambling Act 2005](#)

17.2 [Guidance to Licensing Authorities issued by The Gambling Commission under section 25 of the Gambling Act 2005](#)

17.3 [Existing Statement of Gambling Principles 2013 - 2016](#)