

Report of Head of Elections, Licensing and Registration

Report to Scrutiny Board (Citizens and Communities)

Date: 14th September 2015

Subject: Gambling Act 2005 Statement of Licensing Policy

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Every three years the Council is required by the Gambling Act 2005 to review the Gambling Act 2005 Statement of Licensing Policy (Licensing Policy), and to consult upon any changes.
2. The three yearly review is taking place this year and officers have reviewed the current policy and made suggestions in line with changes to Gambling Commission's Licence Conditions and Codes of Practice. The public consultation took place April to June 2015. The consultation report and final draft of the policy was reviewed and endorsed by Licensing Committee on 7th July 2015.
3. The policy was presented to Executive Board on 15 July 2015 and the next step is for the matter to be considered by Scrutiny Board (Citizens and Communities) under the Budget and Policy Framework.

Recommendations

4. That Scrutiny Board (Citizens and Communities) consider the contents of the report and provide comments or recommendations to Executive Board in line with the Budget and Policy Framework.

1 Purpose of this report

- 1.1 To advise Scrutiny Board (Citizens and Communities) that the triennial review of the Gambling Act 2005 Statement of Licensing Policy is underway with the public consultation having taken place.
- 1.2 To request that Scrutiny Board (Citizens and Communities) consider the contents of the report and provide comments or recommendations to Executive Board in line with the Budget and Policy Framework.

2 Background information

- 2.1 Under Section 349 of the Gambling Act 2005 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every three years from 31st January 2007.
- 2.2 The consultation process is laid out clearly in the Gambling Act 2005, the Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006 and the Guidance to Licensing Authorities issued by the Gambling Commission (www.gamblingcommission.gov.uk).

3 Main issues

- 3.1 This will be the fourth time that the council has reviewed and amended the Gambling Act 2005 Statement of Licensing Policy (licensing policy).
- 3.2 In the last three years there have been a number of issues that have come to the attention of councils nationwide. The most publicly reported of which is the increase in the number of fixed odds betting terminals in betting premises in deprived areas. In Leeds, although there has not been a significant change in the number of betting shops, there has been movement and more premises are opening in deprived areas. Each betting shop is able to site four fixed odds betting terminals.
- 3.3 In response to this concern, the Gambling Commission has consulted upon a change to the Licence Conditions and Codes of Practice (LCCPs) that are attached to Operator's Licence under the Gambling Act 2005 to require operators to complete locality-specific risk assessments and show the measures they use to mitigate the risks. Officers have reviewed the new LCCPs and have incorporated the changes into the licensing policy.
- 3.4 As part of the review and consultation process officers have contacted the responsible authorities (including West Yorkshire Police, Public Health, West Yorkshire Fire and Rescue Services, Leeds Safeguarding Children Board) who have made no comment.
- 3.5 The policy was presented for public consultation on the website, and by email and post to solicitors, licensees, support organisations, responsible authorities, ward members, MPs, trade associations, and parish councils. In total 171 emails and 120 letters were sent advising interested parties of the consultation. The consultation was also advertised on the council's Talking Point webpages.

- 3.6 The consultation attracted four responses. These are detailed along with the council's response in the consultation report at Appendix A.
- 3.7 The responses to the consultation were considered and the policy was proof read again. A minor amendment was made to paragraph 13.10 of the policy to provide clarity:
- 13.10 In order for location to be considered, the council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.*
- 3.8 Following discussion with other local authorities, the Local Government Association and the Gambling Commission on the new requirement for operators to complete local risk assessments from April 2016, a further amendment was made to the section on local licensing guidance (renamed Local Area Profiles) as follows:
- Local Area Profiles*
- 13.17 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the council may publish a local area profile. This profile, compiled in conjunction with the Community Hubs and approved by the Licensing Committee, can be obtained from Entertainment Licensing.*
- 13.18 The local area profiles should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profiles will be presented to any subsequent licensing subcommittee when they determine an application that has received representations.*
- 13.19 The council recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However an applicant who decides to disregard the profiles may face additional representations and the expense of a hearing as a result.*
- 3.9 The final amendment was to the appendices at the end of the document which were updated with the latest gaming machine stakes and prizes and premises entitlements.

- 3.10 The final draft of the policy is attached at Appendix B.
- 3.11 The consultation report and the draft policy was presented to Licensing Committee on 7th July 2015 for their endorsement before the matter started the formal approval process following the Budget and Policy Framework.
- 3.12 Licensing Committee endorsed the draft policy but requested that the wording at 13.10 in the policy be amended further to provide accuracy and clarity that location alone cannot be a consideration factor. Officers now provide the following suggested change:

13.10 Location cannot be considered in its own right. Should the evidence show that the location of the proposed premises would have a negative impact on the licensing objectives then it can be considered by the council when the licence application is determined. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

- 3.13 The Executive Board considered the report on 15th July 2015 and resolved that the contents of the report be noted, which includes the outcomes from the statutory consultation exercise and that the matter be referred to Scrutiny Board (Citizens and Communities) in line with the Council's Budget and Policy Framework Procedure Rules
- 3.14 Due to timescales it was not possible to include the change set out at paragraph 3.12 above in the report to Executive Board, therefore Scrutiny Board (Citizens and Communities) is requested to consider this change to the policy and provide any comment to Executive Board.
- 3.15 The approval of the policy is a matter for full Council. The approval process follows the Budget and Policy Framework. The suggested timescale for approval is as follows:

Executive Board	15 th July 2015 (completed)
Scrutiny Board	14 th September 2015
Executive Board	21 st October 2015
Council	11 th November 2015

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The licensing policy is subject to a statutory consultation which was undertaken between April and June. The responses are included in the consultation report at Appendix A.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The Gambling Act 2005 has three licensing objectives:

- 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.

4.2.2 The licensing authority, in exercising their functions under the Act, shall aim to permit the use of premises for gambling in so far as it thinks its reasonably consistent with the licensing objectives.

4.2.3 Therefore the council has produced a Statement of Licensing Policy with this in mind and has taken special consideration of the protection of children and vulnerable people.

4.2.4 The Licensing Policy review process is subject to a EDCI Assessment, and a screening form has been completed. It is attached at Appendix C.

4.3 Council Policies and Best Council Plan

4.3.1 The Statement of Licensing Policy sets out the principles the council will use to exercise its functions under the Gambling Act 2005. Applicants for licences and permits for gambling are expected to read the Policy before making their application and the council will refer to the Policy when making its decisions.

4.3.2 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

4.3.3 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

4.4 Resources and value for money

4.4.1 A review of the effectiveness of specific consultation methods has been instrumental in reducing costs. The public consultation of the policy is now mostly undertaken by email, which has helped reduce the cost further.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The development of a policy under the Gambling Act 2005 is a matter for full Council and follows the Budget and Policy Framework which requires that Executive Board refers this matter to Scrutiny Board (Citizens and Communities) and then for it to be further considered by Executive Board before being recommended to full Council for approval. The power to call in decisions does not extend to decisions made in accordance with the Budget and Policy Framework Procedure Rules..

4.3 Risk Management

- 4.6.1 Scrutiny Board has the option of recommending that further work is undertaken. The risk is this would impact on the policy approval timescales. A revised policy must be in place by January 2016 in order for the council to continue determining gambling licences and authorisations under the Gambling Act 2005.

5 Conclusions

- 5.1 The Statement of Licensing Policy is under statutory review. A public consultation has been undertaken and the policy reviewed based on the comments received. The final draft policy and the consultation report are presented for endorsement by Licensing Committee. Approval is a matter for full Council following the Budget and Policy Framework therefore the next step is for the policy to be presented to Executive Board along with comments or recommendations from Scrutiny Board. The next available Executive Board is on 21st October.

6 Recommendations

- 6.1 That Scrutiny Board (Citizens and Communities) consider the contents of the report and provide comments or recommendations to Executive Board in line with the Budget and Policy Framework.

7 Background documents¹

- 7.1 There are no unpublished background documents that relate to this matter.

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.