

# Consultation Report

## Gambling Act 2005

The Gambling Act 2005 Statement of Licensing Policy has been reviewed and undergone a public consultation. A number of responses were received and are included within this report along with the Council's comments and suggested changes to the Policy.



## Purpose of this report

To present the consultation responses and the council's proposed changes.

## Background information

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 31<sup>st</sup> January 2007.

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](http://www.gamblingcommission.gov.uk)).

## Main issues

This will be the fifth time that the council has reviewed and amended the Gambling Act 2005 Statement of Licensing Policy (Licensing Policy).

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 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.

Also the Large Casino has opened in Leeds city centre. As part of the undertakings made when the ability to grant the licence was awarded to Leeds, the council commissioned research from Leeds Beckett University to identify problem gambling in Leeds. This research detailed a number of groups that are vulnerable to problem gambling. This information has been included in this revision of the policy.

As part of the review 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 further comments. Officers have worked with Public Health and the council's Financial Inclusion Team on matters related to the study the council commissioned into problem gambling.

Leeds City Council consulted widely upon this policy statement before finalising and publishing it. 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 170 emails and 526 letters were sent advising interested parties of the consultation. The consultation was also advertised via a press release. The consultation took place between 11<sup>th</sup> June and 5<sup>th</sup> August 2018 and followed the Cabinet Office's Code of Practice on Consultation. The responses are provided in this document, along with the Council's response.

The approval process follows the Budgetary and Policy Framework. The suggested timescale for approval is as follows:

Scrutiny Board	10 <sup>th</sup> September
Executive Board	17 <sup>th</sup> October
Council	14 <sup>th</sup> November

## Consultation Responses

### Consultation Response from Luxury Leisure and Talarius Limited

Thank you for the opportunity to make comments on the above consultation. On behalf of Luxury Leisure and Talarius Limited I make the following comments in relation to the consultation draft (the "Draft"):-

1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. I cannot see a reference to the Regulators' Code in the current Draft and suggest that it is incorporated.

**Council Response:** A reference to the Regulators' Code can be included within the Enforcement section.

2. Para 14.10 – It would seem that some wording might be missing from this paragraph – perhaps after "In order for location to be considered".....?

**Council Response:** This is a formatting error and this sentence should form part of the previous section. This can be moved so that it sits in the right place and makes more sense in context.

3. Para 14.12 – As the Authority will appreciate, moral objections to gambling are not valid in relation to applications under the Act. As such, we do not understand why the proximity of places of worship is relevant to the licensing objectives or Local Risk Assessments. We suggest this bullet point be removed.

**Council Response:** Not only are places of worship considered to be sensitive locations as they may provide refuge to those in need, many churches host 12 step programmes to support addiction treatment. Even if the church in question does not host a specific gambling addiction treatment programme, gambling addiction is commonly co-morbid with other addictions such as alcohol and many more churches host alcohol treatment programmes. For this reason their locality to gambling premises should be considered within the local risk assessments.

4. Para 14.13 – the 4th bullet point refers to the local exchange of information about "self-exclusions and gaming trends". It is not clear between whom information is to be exchanged. The Authority will be aware of MOSES schemes but equally aware of the provisions of GDPR. It is not clear what the Authority has in mind in terms of "gaming trends" in this regard.

**Council Response:** Any data shared with the authority would be anonymised and therefore would not fall under the provisions of GDPR. The licensing authority has no need for sensitive personal data on individuals in regard to self-exclusions and gaming trends. This will be made clearer in that paragraph.

5. In the 5th bullet point reference is made to not having advertisements to "entice passers-by". Gambling facilities provided under the Act are perfectly legal, provided they are provided in a compliant manner. There is no general blanket ban on advertising. It is of course subject to the LCCP and the CAP code and made in a responsible way. It is not prohibited and we suggest this bullet point be amended.

**Council response:** In order to be consistent with the objective of the protection of children and vulnerable people, licence holders should consider if their advertisements are likely to attract children and vulnerable people. This can be clarified in the policy.

6. Para 14.18 – It would be helpful if a link to the Local Area Profile was inserted.

**Council response:** As it's possible the link will change throughout the lifetime of the policy, and may even be withdrawn, it is preferable for potential applicants to contact Entertainment Licensing who will not only provide the guidance in relation to the application but also the correct link at that time.

7. Para 14.22 – In our opinion, the wording of this para strays dangerously close to issues of demand. The issue of impact on vulnerable people is properly a matter for the LRA, which is dealt with in detail at paras 14.10 – 14.17. We suggest this para be removed. At worst it risks being interpreted as a demand issue and at best it duplicates the provisions on the LRA.

**Council response:** We concur that this matter is dealt with in the paragraphs which concentrate on location and also in the Local Risk assessment section and para 14.22 should be moved to that place in the Policy (around 14.8). The purpose of this paragraph was to ensure that the location of other gambling licensed premises is taken into consideration when premises are completing their local risk assessment. For example in some areas gambling premises may want to set up a communication link with other premises so that local information can be shared. Similarly the presence of other gambling premises in the area may have an impact on the licensing objectives which could be adequately addressed through the local risk assessment. However the commercial demand for gambling premises is not a matter that can be taken into consideration, and this will be clarified within the policy.

8. Para 14.27, bullet point 11 – Legislators made the decision that children are to be allowed without an adult in specific premises and this is enshrined in the Act. With respect, it is not for the Authority to seek to amend that legislation through the SoP. If there are concerns about supervision in specific premises, the Authority has enforcement power and powers of review. To include such a condition amongst the suggested conditions that could be imposed without evidence of any issue, would be wholly inappropriate.

**Council response:** In para 14.24 it is clear that conditions would only be imposed where there are specific risks or problems associated with a particular locality or specific premises, or class of premises.

9. The final bullet point refers to “obscuring windows”. It is not clear to us what is meant by this, but if it is intended to suggest that a condition be attached requiring shop front windows to be obscured, without evidence of a specific issue, we submit that would be wholly inappropriate.

**Council response:** Again in para 14.24 conditions would only be imposed where there are specific risks or problems.

10. Para 16.4 – the licensing objective set out in the Act that is relevant to this paragraph is outlined at section 13 – i.e. “protecting children and other vulnerable persons from being harmed or exploited by gambling”. The harm that is relevant under the Act is that caused by the gambling facilities in question. It is not harm in the wider sense – the Authority has other enforcement powers in relation harm caused in other ways and to seek to incorporate other harm in the SoP would be to duplicate regimes. Under the Act, the SoP is a statement of the principles which the Authority proposes to exercise in applying its functions under the Act, as is acknowledged on page 5 of the Draft. Accordingly we recommend that the final sentence of this bullet point is removed from the Draft.

**Council response:** Family entertainment centres are premises which are attractive to children and where children are permitted to enter and use the facilities without the supervision of an adult. The final sentence of paragraph at 16.4 is explained in more detail in paragraphs 16.5.

11. Para 16.5 – The operator’s policies and procedures are referred to in general terms with some examples of that may be included. However, unlike the other bullet points, the final bullet point goes beyond the generalities, which does not seem appropriate in the context of the paragraph. Removing it will not constrain the Authority, or applicants in assessing what might be suitable for specific premises. Indeed much of the wording is much more akin to a condition.

**Council response:** Yes, we concur. The detail has been replaced with a sentence that directs applicants to West Yorkshire Police for further advice.

12. Paras 17 and 19 – we note that no wording has been included for casinos or betting premises in the same terms as appears at 15.3 for AGCs. This does not seem consistent and we would expect the words to be replicated for these adult only environments.

**Council response:** Yes, this is a fair point and the policy will be amended accordingly.

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## Consultation Response from Gamcare

Thank you for your email, we appreciate your interest in our work.

We would suggest that Local Licensing Authorities primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator’s player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [mike.kenward@gamcare.org.uk](mailto:mike.kenward@gamcare.org.uk) or [paul.carpenter@gamcare.org.uk](mailto:paul.carpenter@gamcare.org.uk).

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

**Council response:** The council thanks GamCare for their response, and the information provided regarding GamCare Certified operators. The licensing process and the Gambling Act require the licensing authority to permit gambling if it is reasonably consistent with the licensing objectives, the Gambling Commissions Guidance for Licensing Authorities and the Statement of Licensing Policy. An application that does not attract a representation it is granted automatically. Otherwise a licensing subcommittee would only consider the contents of any such representation when deciding to grant a licence. Although an applicant can use their GamCare certification as a way of demonstrating the quality of player protection measures and social responsibility standards this would only be considered if these matters are relevant to the received representations.

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## Consultation Response from Rawdon Parish Council

Rawdon Parish Council have considered the consultation documents and are of the view that regulation of gambling in the city should be tightened to the maximum extent permitted within the law.

**Council response:** The council thanks Rawdon Parish Council for their comments.

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### **Consultation Response from Swillington Parish Council**

Swillington Parish Council has noted the contents of the statement of the licensing policy and in favour of the proposals with no other comments to make.

**Council response:** The council thanks Swillington Parish Council for their comments.

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### **Consultation Response from the Racecourse Association Ltd**

I am writing on behalf of the Racecourse Association, the trade association for horse racecourses in Great Britain. We have reviewed the revision of statement of gambling licensing policy for Leeds City Council, to which we would like the opportunity to respond on behalf of our members.

Local Risk Assessment (Paragraph 14.12 – 14.17) – The Council is asked to be aware that racecourse is not obliged to conduct a risk assessment, that is the responsibility of the operator on the track. We would request that this is specified in the consultation.

**Council response:** This can be clarified within the policy.

## **Conclusions**

Officers have completed the review of the Licensing Policy following the public consultation and have produced a final policy for approval. The policy now continues on the budget and policy framework and will be presented to Scrutiny Panel in September, Executive Board in October and Council in November. The Gambling Act 2005 Statement of Licensing Policy 2019-2021, once adopted, will come into effect on 31<sup>st</sup> January 2019.