

**Report of the Service Director Culture,
Housing and Regulation to the
Statutory Licensing Regulatory Board
to be held on the 29th June 2016**

GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY

1. Purpose of Report

1.1 To inform Members of changes to the framework governing the licensing of gambling and to seek their approval for a new Statement of Licensing Policy for the Council.

2. Recommendation

2.1 That the Gambling Act Statement of Licensing Policy 2016 be approved for adoption by the Council.

3. Current Position

3.1 The Gambling Act 2005 consolidated and updated previous gambling legislation, creating a framework for three different types of gambling; gaming, betting and lotteries. The Gambling Commission is responsible for regulating gambling in accordance with the Act and for issuing national operating licences to gambling businesses and personal licences to individuals. They are required to “aim to permit” gambling.

3.2 Licensing authorities are a key partner in gambling regulation, with a responsibility for overseeing non-remote gambling in their local areas. This includes undertaking inspection and enforcement duties (including tackling illegal gambling), considering applications and issuing licences, reviewing or revoking premises licences and issuing permits for some forms of gambling.

3.3 Barnsley MBC is a Licensing Authority for the purposes of the Gambling Act 2005 and it has a statutory duty to publish a Statement of Gambling Policy under the Act. The objective of this statement of principles is to provide a vision for the local area and a statement of intent that guides practice: licensing authorities must have regard to this statement when carrying out their functions.

3.4 The Statement of Gambling Policy should be reviewed on a regular basis. Following changes to the license conditions and codes of practice in 2015, a new social responsibility (mandatory) code was introduced requiring all operators with

premises licences to produce a local risk assessment by 6th April 2016. These risk assessments show how vulnerable people, including people with gambling dependencies, and children, are to be protected from the potential adverse effects of gambling.

3.5 The Gambling Act 2005 has three licensing objectives to ensure, where possible, that local people are not adversely affected by gambling. These are;

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

3.6 Protecting children and other vulnerable people from being harmed or exploited by gambling is an important licensing objective. Ensuring that this objective is upheld is one of the core responsibilities licensing authorities must meet.

3.7 The existing policy does not include reference to the requirements of the latest guidance, and is therefore out dated. The new policy covers these issues.

3.8 Failing to approve the policy would result in the Council being unable to meet its statutory functions in that applications for licences and permits together with reviews of licences have to be dealt with in line with the adopted policy.

4. Proposal

4.1 The Statement of Gambling Licensing Policy has certain key objectives;

- Provide applicants with a clear, consistent basis for submitting applications and notices in the Borough.
- Provide a clear, consistent basis for determining licence applications in Barnsley.
- Ensure the relevant views of those affected by licensed premises are taken into consideration.
- Ensure local area issues are taken into account by licensed premises.
- Support the wider strategies of the Council and the approach to gambling across the Borough.

4.2 The adoption of the Policy is a legal requirement. The overarching ethos of the policy is to ensure that the licensing objectives are met throughout the Authority and that communities are not undermined by illegal gambling.

4.3 The revised draft policy has been amended to take account of additional guidance and regulations which have been issued since the policy was last adopted by the Council. Failure to update the policy could leave the Authority in a significantly weaker position if it were to be challenged on a decision on that issue. Adoption of the new revised policy would help to pre-empt any legal challenges.

4.4 The new requirements of the guidance applies to all non-remote adult gaming centres, bingo, family entertainment centres and betting licences. Licensees must now assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. These risk assessments must be reviewed and updated periodically to take into account local conditions and circumstances.

4.5 The new requirements for a risk assessment and premises specific mitigation to reduce the risk of gambling related harm should be of benefit to all members of the community, but especially to those who are vulnerable to potential gambling related harm.

4.6 The new arrangements also allow for the Council to address concerns where a significant accumulation of gambling premises occurs in a specific area. Any restrictions on premise licensing can only be considered on the production of verifiable evidence that one or more of the gambling licensing objections has been compromised.

4.7 Once adopted, the policy will be published on the Licensing web site. The Policy will therefore be available to all interested parties.

5. Consultation Results

5.1 In accordance with the legislation, consultation on the proposed new policy has been undertaken with the prescribed statutory consultees, responsible authorities, parish councils and all premises, individuals and groups who hold a gambling licence in the Borough. Consultation lasted for a period of 6 weeks.

5.2 Under section 349(3) of the Gambling Act 2005, the Licensing Authority must in any case consult with;

- The Chief Officer of Police for the Authorities area.
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authorities 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 Authorities functions under the Gambling Act 2005.

5.3 Almost 500 letters were sent to advise stakeholders of the consultation. The revised Statement of Gambling Policy was publically available on the Licensing web site during the consultation period.

5.4 Twenty-one responses were received, sixteen of which had no comments to make on the revised Policy.

5.5 Comments were received from South Yorkshire Police (see section 16), Public Health (see section 12), the Equality and Inclusion Manager (see section 15), Dearne South Community Board and Gosschalks solicitors on behalf of the Association of British Bookmakers.

5.6 Dearne South Community Board queried the age of a “child” in the Policy. The Policy has been altered to clarify that for the purposes of the Act a child is under the age of 16 and a “young person” is under 18.

5.7 The solicitors on behalf of the Association of Bookmakers raised a number of concerns, in particular around the potential additional regulatory burden on operators, and the need for an evidence based approach when creating any local area profiles. They also made a number of specific Policy comments which have been assessed by BMBC Legal Services and, where appropriate, the policy amended.

5.8 Public Health commented that in the absence of a specific Public Health objective for Licensing, there is limited additional information to include. However, they did ask if reference could be made in the introduction to the social, economic and health impacts of problem gambling. A paragraph has therefore been added to the Policy. They also supported the siting of gambling establishments away from environments that have services for vulnerable adults and schools etc. Unfortunately the siting of establishments is outside of the Council’s powers to consider.

5.9 The Equality and Inclusion Manager commented that the Policy doesn’t give specifics as to the measures we would expect gambling premises to take to protect children and vulnerable people from experiencing harm from gambling. The reason for this is that the Authority are not allowed to be prescriptive in their requirements for individual risk assessments, they can only draw attention in the Policy to areas of risk which might need to be addressed. This is because the purpose of the risk assessment is that it is specific to the locality, the premises and the corresponding risk.

5.10 On consultation, South Yorkshire Police suggested additional sentences be inserted into the report regarding the exchange of information, discussion of proposals with the applicant, Police and Licensing prior to making a formal application and a comment regarding door supervisors. These changes have been made to the final document.

6. Background Papers

Statement of Gambling Policy

Gambling Act 2005

Gambling Commission Guidance to Local Authorities 5th Edition

Consultation Responses

7. Officer Contact

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