

## BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

Report of the Executive  
Director, Place.

### 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. Recommendations

**2.1 That the Gambling Act Statement of Licensing Policy 2016 be approved for adoption by the Council. The policy needs to be approved by Cabinet and Full Council.**

#### 3. Introduction

3.1 The 2005 Gambling Act liberalised previous gambling legislation, and established gambling as a mainstream leisure and social activity. Millions of people across the country enjoy gambling safely and responsibly. The overall number of premises has remained broadly stable in recent years and in many places, nationally branded betting shops are a valuable and welcome addition to town centres that make an important contribution to local employment and are a long standing part of the local community. Betting shops also contribute to local services and economies, paying more than £58 million in business rates each year (2013 figures) and investing in new and refitted premises.

3.2 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.

3.3 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.

3.4 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.

3.5 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 6<sup>th</sup> 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.

3.6 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.

3.7 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.

3.8 The Council welcomes applications from gambling premises, with a view to aiming to permit the use of premises for gambling in so far as is reasonably consistent with the three licensing objectives.

#### **4. Consideration of alternative approaches**

4.1 Barnsley Metropolitan Borough Council is the Licensing Authority for the purposes of the Gambling Act 2005 and has a statutory duty to publish a statement of Gambling Policy under the Act. We are also legally required to review and update it on a regular basis, and subject to any changes in the relevant legislation or guidance.

4.2 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.

4.3 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.

## **5. Proposal and justification**

5.1 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.

5.2 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.

5.3 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.

5.4 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.

## **6. Implications for local people / service users**

6.1 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.

6.2 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. Currently, there are no reported problems with gambling premises in the Borough, however all licensed premises are inspected annually.

## **7. Financial implications**

7.1 There are no financial implications arising from this report.

## **8. Employee implications**

8.1 There are no specific employee implications in reviewing and updating this policy.

## **9. Communications implications**

9.1 Once adopted, the policy will be published on the Licensing web site. The Policy will therefore be available to all interested parties. The proposed Policy has already been publicly available as part of the consultation process for a total of 6 weeks.

## **10. Consultations**

10.1 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.

10.2 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.

10.3 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.

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

10.5 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.

10.6 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.

10.7 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.

## **11. The Corporate Plan and the Council’s Performance Management Framework**

11.1 The publication of the policy supports the Council priority of “People achieving their potential” by ensuring children and adults are protected from harm.

## **12. Tackling health inequalities**

12.1 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 et. Unfortunately the siting of establishments is outside of the Council’s powers to consider.

## **13. Risk management issues**

13.1 Failure to have an up to date Statement of Gambling Policy could result in successful legal challenges to the Council’s decisions.

## **14. Compatibility with the European Convention on Human Rights**

14.1 The implementation of the Statement of Gambling Policy will not interfere with the Convention on Human Rights. However, decisions made by the Licensing Board in relation to applications for Licences and reviews of licences will be affected by Human Rights Legislation, in particular Article 6 (the right to a fair trial).

## **15. Promoting equality, diversity, and social inclusion**

15.1 While the Gambling Act rationalises gambling to enable citizens to partake in gambling if they wish, it also includes three licensing objectives, one of which is aimed at protecting children and vulnerable people from being harmed or exploited by gambling activity.

15.2 Subjecting vulnerable adults or children to gambling could lead to them being harmed or exploited and care must be taken to ensure that all applications provide

mitigation measures suitable to the level of risk, as stipulated in the Statement of Gambling Licensing Policy.

15.3 All existing premise operators are required (from April 2016) to produce a local risk assessment in relation to their premises, which proactively mitigates the risks to the licensing objectives. Such a risk assessment should reflect the issues mentioned under the relevant part of the Statement of Gambling Policy for that type of premise.

15.4 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.

## **16. Reduction of crime and disorder**

16.1 Two of the three licensing objectives have a direct impact on the reduction of crime and disorder. These are:

- 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 carried out in a fair and open way.

16.2 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.

## **17. List of appendices**

Appendix 1 Statement of Gambling Policy.

## **18. Background papers**

**Gambling Act 2005  
Gambling Commission Guidance to Local Authorities 5<sup>th</sup> Edition  
Consultation Responses**

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Financial Implications / Consultation .....
<i>(To be signed by senior Financial Services officer where no financial implications)</i>