

Crawley Borough Council

Report to Overview and Scrutiny Commission 25 November 2019

Report to Cabinet 27 November 2019

Review of the Statement of Licensing Policy Gambling Act 2005 (2020 – 2022)

Report of the Head of Community Services – HCS/18

1. Purpose

- 1.1 To inform the Cabinet of the representations received following a 12 week public consultation period 20th September 2019 on the proposed revised Statement of Licensing Policy – Gambling Act 2005.
- 1.2 To consider, and either accept or reject, the amendments to the proposed revised Statement of Licensing Policy – Gambling Act 2005 suggested by consultees.
- 1.3 To ask Cabinet to recommend that the proposed revised Statement of Licensing Policy – Gambling Act 2005 (as set out in Appendix A) to Full Council for approval and adoption.

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

That the Commission consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

- 2.2.1 The Cabinet is recommended to:

- a) Consider the representations received following the consultation (as set out in section 7 of this report), and whether to incorporate the responses into the proposed revised Statement of Licensing Policy Gambling Act 2005 (2020-2022) (as set out in Appendix A).
- b) Request that Full Council approves and adopts the proposed revised Statement Licensing Policy Gambling Act 2005 (2020-2022) (set out in Appendix A or as modified by Cabinet).

3. Reasons for the Recommendations

- 3.1 It is a statutory requirement under the Gambling Act 2005 for a Licensing Authority to prepare a Statement of its Licensing policy every three years. The Council is the Licensing Authority for the borough of Crawley. It is therefore necessary to agree and

develop the proposed strategy to discharge the Council's role in its capacity of Licensing Authority for the 3 year period 2020 – 2022.

4. Background

- 4.1 Section 349 of the Gambling Act 2005 requires a licensing authority, to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Gambling Act 2005 in the coming 3 year period.
- 4.2 There is comprehensive statutory guidance published by the Gambling Commission which has been used in the preparation of this report. The statutory guidance includes guidance in respect of preparing, revising and publishing a Statement of Licensing Policy. Local authorities must have regard to the Statutory Guidance.

5. Description of Issue to be resolved

- 5.1 The Council is responsible for the issuing of Licences for premises that are covered by the Gambling Act. 2005. Licences for operators and game types together with controls concerning gambling machines are dealt with directly by the Gambling Commission. The Council must have regard to statutory guidance and its own statement of Licensing Policy regarding the Gambling Act 2005 when issuing any licence for a premises.
- 5.2 The Council has statutory requirement review its statement of Licensing Policy regarding Gambling Act 2005 which requires a review at least every 3 years.
- 5.3 Whilst the Council has no actual role in setting prize machine limits a response was sent to the Gambling Commission in connection to their recent review of the Gambling Industry supporting the reduction of stakes for Fixed Odds Betting Terminals to £2.00 which is scheduled to become law in the future.
- 5.4 Details of the Gambling Commission's plans to amend controls concerning aforementioned consultation can be found at 8.1 under Background Papers.
- 5.5 The changes to the current Statement of Licensing Policy are summarised in Appendix B for information.

6. Information & Analysis Supporting Recommendation

- 6.1 Before publishing its Statement of Licensing Policy for any three year period the Council must consult the persons listed in section 349(3) of the Gambling Act 2005 namely;
- The Chief Officer of Police
 - One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the borough.
 - One or more persons who appear to the Council to represent persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 6.2 The Statutory Guidance states that the list of persons to be consulted is deliberately wide so as to allow licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Gambling Policy.

- 6.3 It was recommended that as part of the consultation process details of the proposed revised Statement Gambling Policy, together with an invitation to submit comments, be posted on the Council's website.
- 6.4 The public consultation period lasted for a period of 12 weeks between 8th July 2019 and 20th September 2019. This included posting a copy of the document on the Council's website together with issuing notification was also sent to all Councillors, West Sussex County Council, Chief Officer Police, listed Responsible Authority's, local schools and representatives of the licensed premises.

7. Responses to the Consultation

- 7.1 As a result of our consultation process 2 responses were received as set out below;-

(a) Gamcare

Hello,

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

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?

- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification (now being replaced by our [Safer Gambling Standard](#)) 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

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.

If there is anything else we can assist with please do let us know.

(b) Director of Public Health West Sussex

Hi Tony and Mike,

The Public Health Research Team are looking into the possibility of producing a gambling local areas profile for each district/borough of West Sussex. Our thinking is that this could be featured on each district/borough council website, to be used by gambling applicants to inform their local risk assessment.

We are thinking of producing something along the lines of the Brighton and Hove gambling profile, only at borough level rather than ward level. We would look to include data/maps focussing on deprivation and also include maps of gambling and alcohol premises, schools and gambling treatment locations.

If you haven't seen the Brighton profile, I have copied and pasted the information and the link to the profile below.

Local Risk Assessments

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 the Gambling Policy.

We have updated our Gambling Policy to include guidance on producing a risk assessment and using the Local Area Profile, including what we would expect as a minimum.

The [Local Area Profile \(Microsoft Excel 1.4MB\)](#) is evidence based and maps local risks to the area

- 7.2 This information requested by the Director of Public Health has now been supplied and Councillors are advised that the link within our policy will direct premises licence applicants to the WSCC page to ensure they take this information into account when

undertaking a risk based on local area profiles. A request will also be made to ensure CBC is informed should this link be amended.

- 7.3 Following the statutory consultation process and after Full Council has approved and adopted the Policy the Council must publish its revised Statement Gambling Policy and advertise the publication by way of public notice, in accordance with legal requirements. The revised Statement Gambling Policy will come into effect on the date specified in the public notice which must be at least 4 weeks from the date of publication of the revised statement and public notice.
- 7.3 The Director of Public Health for West Sussex has also suggested a foreword for the updated policy further to the close of the consultation period as follows.

Harmful gambling is defined as any type of repetitive gambling that disrupts or damages personal, family or recreational pursuitsⁱ. It is not just the gamblers themselves who experience these harms; individuals, families and communities are all affected. Research published by Citizens Advice suggests that, for every problem gambler there are on average between six to ten additional people who are also directly affectedⁱⁱ.

Harmful gambling can cause a wide variety of health and social issues, such as alcohol and drug misuse, financial difficulties, mental health issues, loss of employment, domestic abuse and family breakdownⁱⁱⁱ.

There is evidence to show that certain groups are more at risk of experiencing gambling-related harm than others; these include: people living in deprived areas, individuals from certain ethnic minority groups (such as Asian/Asian British, Black/Black British and Chinese/other ethnicity), children and young people, those with mental health issues, those with alcohol or drug issues, and people who are homeless^{iv}.

Children are also particularly affected by problem gambling by a family member.^v

The NHS provides online information and support for people who may be gambling problematically or affected by someone else's gambling, including a short questionnaire to help identify whether someone is gambling problematically: <https://www.nhs.uk/live-well/healthy-body/gambling-addiction/>

8. Staffing, Equalities, Financial, and Legal Implications

- 8.1 There are no extra staffing or financial implications to the Council.
- 8.2 The Statement of Licensing Policy is specified within the Council's Policy Framework therefore Full Council is required to consider and formally adopt the revised Policy.
- 8.3 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 8.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;

- (a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and
- (b) The misuse of drugs, alcohol and other substances in its area, and
- (c) Re-offending in its area.

8.5 Pursuant to s149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment marriage/civil partnership pregnancy/maternity race
- religion/belief
- gender and sexual orientation

8.6 An equality impact assessment has been carried out and this is attached as Appendix C.

9. Background Papers

Gambling Act 2005

Guidance to Licensing Authorities (GLA) 6th edition 2019 by the Gambling Commission.

[Government response to the consultation on Gambling Guidance to Licensing Authorities](#)

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ⁱ Thorley, C., Stirling, A. & Huynh, E, (2016). *Cards on the Table: The Cost to Government Associated with People who are Problem Gamblers in Britain*. Available online at: www.ippr.org/files/publications/pdf/Cards-on-the-table_Dec16.pdf [Accessed 10/04/2019]

ⁱⁱ Citizens Advice. (2018). Out of Luck – An exploration of the causes and impacts of problem gambling. Available online at: <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/out-of-luck-an-exploration-of-the-causes-and-impacts-of-problem-gambling/> [Accessed 10/04/2019]

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- iii Thorley, C., Stirling, A. & Huynh, E, (2016). *Cards on the Table: The Cost to Government Associated with People who are Problem Gamblers in Britain*. Available online at: www.ippr.org/files/publications/pdf/Cards-on-the-table_Dec16.pdf [Accessed 10/04/2019]
- iv Local Government Association & Public Health England. (2018). *Tackling gambling related harm. A whole council approach*. Available online at: <https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach> [Accessed 10/04/2019]
- v Faculty of Public Health. (2018). *Faculty of Public Health Gambling Policy Statement*. Available online at: <https://www.fph.org.uk/media/1810/fph-gambling-position-statement-june-2018.pdf> [Accessed 10/04/2019]