

Crawley Borough Council

Report to Licensing Committee

12 September 2022

Review of the Statement of Licensing Policy Gambling Act 2005 (2023 – 2025) Consultation

Report of the Head of Community Services - HCS/046

1. Purpose

- 1.1 To draw councillors' attention to the proposed revised Statement of Licensing Policy Gambling Act 2005 (2023 – 2025) as set out in **Appendix A** together with the proposed changes to the current Policy Statement summarised below.
- 1.2 Under Sub-Delegation 5, the Head of Community Services agreed that the draft Statement of Licensing Policy – Gambling Act be released for [consultation](#) between Monday 22nd August 2022 and Monday 21st October 2022.
- 1.3 The Statement of Licensing Policy Gambling Act 2005 (2023 – 2025) is a Policy Framework Document, and as such the report on the outcomes of the consultation and on the Policy as updated, will be further considered by the Licensing Committee, the Overview and Scrutiny Commission, before its submission to the Cabinet and then subsequently Full Council for approval and adoption in December 2022.
- 1.4 Following the statutory consultation process and subsequent Full Council approval the Council must then publish its revised Statement of Gambling Policy and advertise the publication by way of public notice, in accordance with legal requirements. The revised Gambling Policy will come into effect on the date specified in a public notice which must be at least 4 weeks from the date of publication of the revised Statement and public notice.
- 1.5 All members of the Licensing Committee have been consulted as part of the consultation. The Licensing Committee is invited to offer a response as part of the consultation feedback to the revised draft Statement of Licensing Policy – Gambling Act 2005.

2. Recommendations

- 2.1 That the Licensing Committee provides a collective response to the revised Statement of Licensing Policy - Gambling Act 2005 (2023 – 2025) consultation, which will be included in the final report to the Licensing Committee in November 2022.

3. Reasons for the Recommendations

- 3.1 To assist in developing the proposed strategy to discharge the Council's role in its capacity of Licensing Authority for the 3 year period 2023 – 2025.
- 3.2 To ensure the Council's policy is revised for the coming 3 years as required by Section 349 of the Gambling Act 2005 and that this is done in accordance with procedures, legislative requirements and is compliant with statutory guidance regarding consultation.

4. Background

- 4.1 Section 349 of the Gambling Act 2005 (the 'Act') requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its licensing functions under the Act every 3 years.
- 4.2 This is commonly referred to as a 'Statement of Licensing Policy' (the 'Policy'). A number of specific matters must be considered and determined within the Policy in order that the provision of betting, gaming and lotteries within the district is provided in a manner that promotes the three statutory gambling licensing objectives, these are:
- 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.
- 4.4 The Council is responsible for the issuing of licences for premises that are covered by the Act. 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 Gambling Policy regarding the Act when issuing any licence for a premises.
- 4.5 There is comprehensive statutory guidance published by the Gambling Commission which has been used in the preparation of this report and proposed Policy. The statutory guidance includes guidance in respect of preparing, revising, and publishing a Statement of Gambling Policy and local authorities must have regard to the statutory guidance.

5. Information & Analysis Supporting Recommendation

- 5.1 Before publishing its Policy for any three-year period the Council must consult the persons listed in Section 349(3) of the Act, 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.
- 5.2 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.
- 5.3 A full list of those consulted will be fully documented, along with any responses received as part of the consultation process. An overview is provided as part of the proposed Policy.
- 5.4 When preparing the revised Policy, officers have carefully considered the contents of the current Policy specifically against the 5th edition of the statutory guidance issued by the Gambling Commission in September 2015 with parts 17, 18 and 19 updated September 2016. The proposed Policy continues to be consistent with the statutory guidance.
- 5.5 The overarching legislative framework of the Act remains largely unaltered, and there are no legislative changes which necessitate amendments in this regard to the

current Policy for matters under the Act.

- 5.6 The Council is required to formally designate a body responsible for advising it about the protection of children from harm. It is proposed within the revised Policy to continue to designate the West Sussex Local Safeguarding Children Board for this purpose and this is reflected in the proposed Policy. This is the body responsible for advising the Council on such matters in relation to other regulatory regimes and is considered best placed to advise accordingly.
- 5.7 The Council has never passed a 'no casino' resolution under Section 166(1) of the Act. This leaves the option open for the Council to bid for a casino and permit applications if the opportunity were to arise. It continues to be the case that no approach has ever been made to the Council by operators wishing to open a casino within the Crawley borough.
- 5.8 However, this is believed to be largely based on the fact that those who hold a Casino Operating Licence granted by the Gambling Commission are aware that nationally, following a rigorous process, only certain licensing authorities are permitted to grant casino premises licences.
- 5.9 Historically this Council chose not to enter the bidding process and therefore could not grant a casino premises licence. The Policy remains open that should the position change nationally, this Licensing Authority would consider an application for a casino licence. The proposal within the revised Policy is to maintain the current stance.
- 5.10 As part of the 8 week consultation process, details of the revised Policy, together with an invitation to submit comments, was published on the Council's website.
- 5.11 Following the statutory consultation process, all consultation responses will be carefully considered and where relevant, incorporated into the proposed Policy, with the matter being placed before the Licensing Committee, Overview and Scrutiny Commission, Cabinet and Full Council as detailed above.
- 5.12 The Council must then publish its revised Policy and advertise the publication by way of public notice, in accordance with legal requirements.
- 5.13 Once adopted by the Council, the Policy ordinarily has effect for a period of three years and is kept under review during this period so as to ensure that it remains suitable and adequately addresses any current or emerging issues.
- 5.14 The current Policy has had effect for the preceding three years, following approval by Cabinet on 27th November 2019 and Full Council on 16th December 2019. It has not been the subject of any legal challenge or complaint during that time.
- 5.15 The current Policy is due to expire at the end of January 2023 and it is therefore necessary to undertake a review.

6. Summary of Revisions

- 6.1 It should be noted that there have been no legislative, regulatory or guidance changes since the last Policy.
- 6.2 The Policy has been revised and updated where possible to make it easy to understand and to improve accessibility. Furthermore, it now reflects the "standard format" expected by the Gambling Commission in connection with the Act. The previous Policy prepared by the former Head of Environmental Health deviated from this somewhat. Each section is now numbered, with subheadings and paragraphs

making it easier to locate and refer to information.

6.3 The draft Policy provides:

- Revised details of the local area and consideration of local strategies and policies in the consultation and decision-making process
- New paragraphs on “problem gambling”
- Additional information regarding Responsible Authorities, Interested Parties and the designation of the West Sussex Safeguarding Board to advise the Council on safeguarding issues
- Additional information on the exchange of information and sharing of details with regulatory partners, including via the Primary Authority Scheme
- Additional information on enforcement and compliance
- Additional information on the Council as Licensing Authority, decision-making process and delegation of functions
- Additional information on premises to be licenced and operated in the borough, inclusive of a section to reiterate that the Council has not made a resolution to prohibit casinos
- Additional information on the Licensing Objectives and steps to promote such, including local risk assessments, staff training and conditions
- Additional information on the review process
- Additional information on permits, temporary permissions and gambling in licensed premises
- Revised appendices to reflect local changes and the inclusion of additional information relating to categories of machines, fees (currently under review) and a revised glossary of terms to maximise accessibility and understanding.

7. Implications

7.1 The Council would be at risk of potential legal challenge regarding any matters pertaining to the Act should its Policy be out of date.

7.2 There are no financial or staffing consequences that will arise from the changes to the policy as the maximum fees that can be charged are set by statute.

8. Background Papers

Gambling Commission Guidance to Licensing Authorities 5th Edition (September 2015) with updated Parts 17, 18 and 19 (September 2016).

Gambling Act 2005

[Current Statement of Licensing Policy \(Gambling\)](#)

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