

# Crawley Borough Council

## Report to Licensing Committee

7 November 2022

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

Report of the Head of Community Services - HCS/052

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#### 1. Purpose

- 1.1 To inform the Licensing Committee of the representations received following an 8 week public consultation period between Monday 22nd August 2022 – Monday 21st October 2022 on the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023-2025).
- 1.2 To consider, and either accept or reject, the amendments to the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023 – 2025) without inclusions from consultation feedback, since the feedback related to matters under the jurisdiction of a separate body, the Gambling Commission
- 1.3 To ask the Licensing Committee to recommend that the proposed revised Statement of Licensing Policy – Gambling Act 2005 (2023-2025) (as set out in **Appendix A**) to Full Council for approval and adoption
- 1.4 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, are being considered by the Licensing Committee, The Overview and Scrutiny Commission will also review the draft Policy, before its submission to the Cabinet and then subsequently Full Council for approval and adoption in December 2022.
- 1.5 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..

#### 2. Recommendations

- 2.1 The Licensing Committee is recommended to:
  - a) Consider the representation received following the consultation (as set out in Section 7 of report HCS/052).
  - b) Provide a collective response to the revised Statement of Licensing Policy - Gambling Act 2005 (2023 – 2025) consultation to be included in the final report that will be considered by the Overview and Scrutiny Commission and the Cabinet prior to the submission of the proposed Policy to the Full Council.

### **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 (Gambling Act 2005) every three years.
- 3.2 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 2023 – 2025.
- 3.3 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 The public consultation period lasted for a period of 8 weeks between Monday 22nd August 2022 – Monday 17<sup>th</sup> October 2022. 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. Members of the Licensing Committee were also directly consulted.
- 5.4 A full list of those consulted has been fully documented, along with any responses received as part of the consultation process and included at Section 7 of this report
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 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.
- 5.9 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.
- 5.10 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.
- 5.11 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.
- 5.12 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.x
- 5.13 The Council must then publish its revised Policy and advertise the publication by way of public notice, in accordance with legal requirements.

- 5.14 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.
- 5.15 The current Policy has had effect for the preceding three years, following approval by Cabinet on 27<sup>th</sup> November 2019 and Full Council on 16<sup>th</sup> December 2019. It has not been the subject of any legal challenge or complaint during that time.
- 5.16 The current Policy is due to expire at the end of January 2023 and it is therefore necessary to undertake a review.
- 5.17 Revisions to the Gambling Act were expected in the autumn of 2020, however, delays largely caused by the disruption associated with COVID-19 have meant that this did not occur.
- 5.18 This does not mean most of the laws around gambling will change overnight, rather it will set out a landscape for future regulation. For example, in the 2005 Act created the UK Gambling Commission but the body did not become active until 2007 as it took two years to for the commission to assume full powers from the [Gaming Board for Great Britain](#)

## **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 Consultation Feedback

7.1 The Council has only received feedback from one member of the Licensing Committee, which is below along with responses from the Team Leader for Health, Safety and Licensing (in bold) as the majority of matters raised are overseen and controlled by the Gambling Commission as opposed to the Council as Licensing Authority. Therefore, these will be raised separately with the Gambling Commission and other bodies as relevant.

*I have the following comments*

- 1) *Whilst I appreciate online gambling is not part of the councils remit – I feel that online gambling is likely to feature highly in the overall situation*
  - a. *Do we have facilities for online problem gambling to be reported **This is reportable to the Gambling Commission***
  - b. *Do the ISPs have facilities to block gambling sites from a household / mobile device **This would be via the Gambling Commission***
  - c. *Is there any guidance we can offer people, could we approach the broadband providers with guidance **This would be via the Gambling Commission***
  
- 2) *Do we have links to other agencies on the CBC website **We are currently updating our website to include links to GamCare and other support agencies. There is a Responsible Authorities, a list of other organisations and email addresses to be incorporated.***
  - a. *Are we as joined up as we could be **I believe we are. We work in partnership with statutory partners but particularly Sussex Police, Public Health and the Gambling Commission as well as Pubwatch.***
  - b. *Do we collect information when gambling is the root cause of other behaviour – such as financial issues, shoplifting, theft, muggings ... domestic violence (which ones are drug fuelled, gambling ... other) **Crime statistics are available and called upon but the root cause/causal link is hard to prove and ASB/Crime has not been directly linked to gambling per se.***
  - c. *Do we ask for reports from newsagents and bars – when they see problem behaviour **Yes – via Pubwatch and Shopwatch***
  
- 3) *How do we warn younger people about the dangers of gambling – before it becomes a problem **I believe that this should form part of PHSE education in schools but it is not currently. Gambling premises are not allowed to include marketing that might appeal to under 18s, and must have information available to over 18s using the premises about problem gambling, the ability to self-exclude and sources of support and help for problem gamblers***
  - a. *School visits - **See above that I am of the view that it should form part of PHSE education but I don't believe it does***
  - b. *Online adverts on social media – **Agreed***
  - c. *Noticeboard information - **Agreed***
  - d. *Confidential advice - **See above***
  - e. *What the position on random loot boxes in gaming (should we ask the government to pressure the gaming industry for their removal) **I am not sure what you mean by this?***

***If you see social media and TV adverts, there is always a message regarding responsible gambling and over 18s. This is a legal requirement where they are UK registered.***

4) *What about warnings for what could be perceived as low level gambling*

- a. *National Lottery / Euro Millions **Managed by the Gambling Commission***
- b. *Grand National **Managed by the Gambling Commission***
- c. *Work / organisation gambling used for fund raising.*
- d. *Scratch cards **Managed by the Gambling Commission***

*Hopefully, this email may prompt some changes and improvement to what looks like is going to be a good policy.”*

- 7.2.1 Members should also note that, following agreement with the Portfolio Holder on 26<sup>th</sup> September 2022, the fees associated with the gambling activities have been raised to the statutory maximum. These fees were set centrally by Government at the commencement of the 2005 Act and have not been revised since this date.
- 7.3 Following the statutory consultation process and should Full Council approve and adopt 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.

## **8.0 Staffing, Equalities, Financial, and Legal Implications**

- 8.1 The Council would be at risk of potential legal challenge regarding any matters pertaining to the Act should its Statement of Licensing Policy – Gambling Act be out of date.
- 8.2 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. The Service is self financing and the fees are used to offset costs.
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 Pursuant to Section 149 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

### **Background Papers**

Gambling Commission Guidance to Licensing Authorities 5<sup>th</sup> Edition (September 2015) with updated Parts 17, 18 and 19 (September 2016).  
Gambling Act 2005

Current Gambling Act Policy

[Consultation statement of licensing policy 2020 2022.pdf \(crawley.gov.uk\)](#)

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