

Crawley Borough Council

Report to Overview and Scrutiny Commission 21 November 2022

Report to Cabinet 23 November 2022

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

Report of the Head of Community Services – HCS/050

1. Purpose

- 1.1 To inform the Cabinet of the representations received following an 8 week public consultation period between Monday 22nd August 2022 – Monday 17th October 2022 on the proposed revised Statement of Licensing Policy (Gambling) for the period 2023-2025.
- 1.2 To consider, and either accept or reject, the amendments to the proposed revised Statement of Licensing Policy (Gambling) for the period 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 Cabinet to recommend that the proposed revised Statement of Licensing Policy (Gambling) for the period 2023-2025 as set out in **Appendix A** is approved and adopted by Full Council.

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 in respect of this matter.

- 2.2 To the Cabinet

The Cabinet is recommended to:

- a) Consider the feedback received following the consultation and consideration of the Licensing Committee (as set out in Section 8 of this report).
- b) Request that Full Council approves, adopts and authorises for publication the proposed revised Statement Licensing Policy (Gambling) for the period 2023-2025 as 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 and publish a Statement of its Licensing Policy every three years. The Council is the Licensing Authority for gambling matters in the borough of Crawley. It is therefore necessary to agree and develop the proposed Statement of Licensing Policy (Gambling Act) 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 Statement of Licensing Policy (Gambling) is revised and published 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 the Council as Licensing Authority for gambling matters to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act in the coming 3 year period, 2023 – 2025.
- 4.2 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 Borough 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.
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.3 There is comprehensive statutory guidance published by the Gambling Commission which has been used in the preparation of this report and includes guidance in respect of preparing, revising and publishing a Statement of Licensing Policy (Gambling) (the 'Policy'). The Policy provides a framework for decision making and the Council as Licensing Authority for gambling matters must have regard to the Statutory Guidance when discharging its functions under the Act.

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 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 the Gambling Act 2005, statutory guidance and its own Policy when issuing any licence for a premises.
- 5.2 The Council has statutory requirement review its Policy at least every 3 years and the proposed revised Policy at Appendix A is designed to cover 2023 – 2025, but also may be revised during this period in light of any changes to legislation or practice.

6. Information & Analysis Supporting Recommendation

- 6.1 Before publishing its Statement of Licensing Policy (Gambling) 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.
- 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 Statement of Licensing Policy (Gambling).

- 6.3 The public consultation period lasted for a period of 8 weeks between Monday 22nd August 2022 – Monday 17th October 2022. This included posting a copy of the document on the Council’s website together with issuing notification was also sent to a range of individuals and bodies, including all Councillors, Chief Officer Police, noted Responsible Authorities, various gambling bodies and representatives of licensed premises in the Borough. All Members of the Licensing Committee were directly consulted as part of the process and the proposed revised Policy discussed at a Full Licensing Committee on 7th November 2022.
- 6.4 The proposed revised Statement of Licensing Policy (Gambling) is included at **Appendix A**.

7. Summary of Revisions

- 7.1 It should be noted that there have been no legislative, regulatory or guidance changes since the Council’s last Statement of Licensing Policy (Gambling) for the period 2020-2022 was published, which is still in force but due to expire at the end of January 2023. It has not been the subject of any legal challenge or complaint during that time.
- 7.2 When preparing the proposed revised Statement of Licensing Policy (Gambling), 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 latest statutory guidance
- 7.3 The proposed revised Statement of Licensing Policy (Gambling) has been re-drafted 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. Each section is now numbered, with sub-headings and paragraphs, making it easier to locate topics and refer to information.
- 7.4 The proposed revised Statement of Licensing Policy (Gambling) 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 as Licensing Authority 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 licence conditions.
 - Additional information on the Review process
 - Additional information on permits, temporary permissions and gambling in licensed premises

- Appendices revised to reflect local changes and the inclusion of additional information relating to categories of machines, fees and a revised glossary of terms to maximise accessibility and understanding.
- 7.5 Revisions to the 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.
- 7.6 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](#).

8. Consultation Feedback

- 8.1 As a result of our consultation process, the Council only received feedback from one member of the Licensing Committee. This is attached as **Appendix B**, 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.
- 8.2 Members should also note that, following agreement with the Portfolio Holder on 26th 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.
- 8.3 At its meeting on [7th November 2022](#), the Licensing Committee discussed the proposed revised Statement of Licensing Policy (Gambling) and sought clarification on the following:
- Supported the inclusion of “problem gambling” and support mechanisms to self-exclude or be excluded by a gambling operator where gambling behaviours become a concern.
 - Measures to ensure that gambling is conducted in a fair and open way, the payment of winnings and associated activities. The Licensing Manager confirmed that the Licensing Team work in partnership with the Gambling Commission, Sussex Police and Trading Standards in fulfilling its regulatory functions.
 - Concerns regarding the number of gambling establishments as well as online gambling alongside measures to monitor and regulate such
 - Fees being set at the statutory maximum to cover the costs of the Councils functions under the Act.
 - Clarification of the types of gambling premises in operation (with the definition of an unlicensed Family Entertainment Centre (UFEC) now included in the glossary of terms.
- 8.4 Notwithstanding the above, the Licensing Committee noted the other representation received as part of the consultation but unanimously supported the proposed revised Statement of Licensing Policy (Gambling) without revision.
- 8.5 Following the statutory consultation process, and should Full Council approve and adopt the Policy, the Council must publish its revised Statement of Licensing Policy (Gambling) and advertise the publication of this by way of Public Notice, in accordance with legal requirements.
- 8.5 The revised Statement Gambling Policy (Gambling) 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 If the proposed revised

Statement of Licensing Policy (Gambling).

9. Staffing, Equalities, Financial, and Legal Implications

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 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

10. 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 Gambling Act Policy

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

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