

COUNCIL		
Report Title	Gambling Act Policy 2016-2019	
Key Decision	Yes	Item No.
Ward	All	
Contributors	Executive Director for Community Services, Executive Director for Resources and Regeneration, Head of Law	
Class	Part 1	Date: 24 February 2016

1. Purpose of Report

- 1.1 The Gambling Act 2005 provides Local Authorities with a duty to review its statement of licensing principles for premises licensed for gambling every three years. The Lewisham Gambling Policy was last reviewed in 2012.
- 1.2 The London Borough of Lewisham's ('the Licensing Authority') Statement of Licensing Policy for premises licensed for gambling sets out the issues which the Licensing Authority will take into consideration when determining Premises Licences and covers licensed premises throughout the Borough. When drawing up the Policy, the Licensing Authority has considered the wide range of premises that will be licensed, including casinos, amusement arcades, bingo halls, betting offices and alcohol-licensed premises.
- 1.3 The statement of licensing principles for premises licensed for gambling has been subject to necessary statutory public consultation during 2015 in preparation for the revised policy to be published by the end of January 2016, thereby fulfilling the three years maximum lifespan.
- 1.4 Under the Gambling Act 2005, the Council has a duty to publish the policy it will adopt when it considers licensing applications from businesses that:
- Require a premises licence to authorise the provision of gambling facilities
 - Require authorisation other than a premises licence including unlicensed Family Entertainment Centres, Gaming machines on alcohol licensed premises, Prize Gaming, Club Gaming and Club Gaming Machines
- 1.5 Whilst the licensing authority are permitted to authorise the provision of premises licences in relation to gambling premises, the Gambling

Commission are responsible for the issuing of both the operators licence and the personal management licence.

- 1.6 The attached draft Gambling Policy sets out the way in which Lewisham will consider applications for such licences.

2. Recommendation

- 2.1 It is recommended that Council agrees that the Gambling Act Policy for 2016-2019 should be formally determined and published.

3. Policy Context

- 3.1 The Gambling Act Policy assists the Council in meeting its priorities set within the Sustainable Community Strategy 2008-2020:

- making the borough 'safer' and taking actions to meet the Safer Lewisham Partnership Priorities.
- Healthy, active and enjoyable and taking actions to meet the Health and Wellbeing Board Priorities.
- Dynamic and Prosperous to increase and improve the vitality and quality of town centres and localities.

- 3.2 This Gambling Act Policy also specifically supports the following Council's Corporate Priorities:

- *Safety, Security & Visible Presence* – Improving partnership working with the police and others and using the Council's powers to combat crime, the fear of crime and anti-social behaviour
- *Strengthening The Local Economy* – Gaining resources to regenerate key localities, strengthen employment skills and promote public transport

- 3.3 Paragraph 4.2 (a) of Article 4 of the Council's Constitution confirms that the Licensing Statement (Gambling) is a policy which, when adopted by members at Full Council, will make up the Council's policy framework.

4. Key changes in this Policy

- 4.1 The key changes to this revised policy include:

- A requirement for licensees to formulate local risk assessments for each of its premises.
- Providing local authorities with the option of establishing local area profiles.
- Placing a greater emphasis on the social responsibility of retailers whilst exploring area based vulnerability to gambling related harm.

- Encouraging information sharing with both the Gambling Commission and operators to ensure that a local area profile is timely and reflective of challenges faced in the local community (underage gambling, problem gambling and vulnerability).

5. Purpose of the Policy

5.1 This policy has five main objectives:

1. To reinforce to elected Members on the Licensing Committee the powers and constraints placed upon the local authority as licensing authority by the Gambling Act 2005.
2. To set out, for the benefit of prospective applicants, responsible authorities, local residents and premises licensed for gambling, the parameters under which this authority will make its licensing decisions.
3. To inform prospective licensees of premises licensed for gambling how a licensed premises is likely to be able to operate within an area.
4. To inform local residents and licensees of premises licensed for gambling how their needs will be addressed.
5. To minimise the number of licensing decisions that may be challenged in a court of law.

5.2 Scope of the Policy

5.2.1 The Gambling Act 2005 regulates the following activities:

- Adult Gaming Centres (for Category B3, B4, C and D machines)
- Family Entertainment Centres (for Category C and D machines). The Licensing Authority may also issue Family Entertainment Centres Gaming Machine Permits that authorise the use of Category D machines only.
- Casino Premises
- Bingo Premises
- Betting Premises, including race tracks used by betting intermediaries

5.2.2 Forms of authorisations other than Premises Licenses are as follows:

- Unlicensed Family Entertainment Centres
- Gaming machines on alcohol-licensed premises
- Prize Gaming
- Club Gaming
- Club Gaming Machines

5.2.3 Key Principles of the Policy:

- The policy recognises the increasing awareness within gambling facilities to promote social responsibility as a means of challenging problem gambling which in turn reduces the likelihood of crime and disorder in the premises and within the locality of the premises.
- The policy provides a regulatory framework for gambling, which reflects the needs of our local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area.
- The policy encourages greater community involvement in licensing decisions and gives local residents the opportunity to have their say regarding licensing decisions that may affect them.
- Each licence application will be considered on its own merits in the context of the three licensing objectives set out below paragraph 5.4 in addition to the operators ability to satisfy identified local risks via the production of a local risk assessment.

5.3 Types of Authorisation

5.3.1 The types of authorisation that can be applied for are:

- **Premises licences:** to use a premises for the provision of gambling
- **Unlicensed Family Entertainment Centre gaming machine permits:** Where a premises does not hold a premises licence but wishes to provide gaming machines it must apply to the local authority for this permit.
- **(Alcohol) Licensed premises gaming machine permits:** Licensed premises selling alcohol for consumption on the premises can automatically have 2 gaming machines of category C and or D
- Prize Gaming Permits
- **Club Gaming and Club Machines Permits:** Provide three gaming machines (B, C or D) equal chance gaming or games of chance.
- **Temporary Use Notices:** Use of the premises for gambling where there is no premises licence but the gambling operator wishes to use the premises temporarily to provide facilities for gambling
- **Occasional Use Notices:** Authorised to carry out for eight days in a calendar year.

5.4 The Licensing Objectives

5.4.1 In carrying out its licensing functions, the Council will promote the three licensing objectives set out in the Gambling Act 2005. They are:

- To prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- To ensuring that gambling is conducted in a fair and open way
- To protect children and other vulnerable persons from being harmed or exploited by gambling

5.4.2 Unlike the Licensing Act 2003, whereby equal importance is given to all four of its licensing objectives, the Gambling Commission has advised that licensing authorities are best placed to protect children and other vulnerable persons from being harmed or exploited by gambling.

5.4.3 The licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as the restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).

6. Financial Implications

6.1 The delivery of a comprehensive Gambling Act policy and service is critical to businesses and residents. Costs incurred through enforcement activity and court action is necessary on occasion and decisions will be taken in line with the Council agreed Enforcement policy. The Service budgets for this action, but there may be occasions where legal costs will be greater than predicted and decisions will be taken as appropriate on a case by case basis.

7. Legal & Human Rights Implications

7.1 Section 349 of the Gambling Act 2005 requires the Licensing Authority to prepare and publish a Statement of Gambling Licensing Policy every 3 years. The next Statement must be published by 31 January 2016.

7.2 Licensing Section 25 of the Gambling Act 2005 requires the Authority to have regard to the Gambling Commission's Guidance when preparing its Policy.

7.3 Any other legal implications relating to the Statement of Gambling Licensing Policy are detailed within the 2005 Act.

7.4 Part 1A of the Local Government Act 2000, provides that the functions of a local authority in England operating executive functions (in the form of an elected mayor and cabinet) must be discharged by the executive unless those functions are specified not to be the responsibility of the authority's executive by virtue of regulations. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended by 2004 Regulations (2004/2748), provide that the power to determine and publish a licensing authority statement of policy is not an executive function, but is instead a matter only for the Council.

- 7.5 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 7.7 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.8 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 7.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 7.10 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and

who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

7.11 Licensing Authorities, as defined by the Licensing Act 2003, s.3 (1) are public authorities for the purposes of the Human Rights Act 1998. Accordingly, they are under a duty to act compatibly with Convention rights in the exercise of their functions.

7.13 The current draft Statement of Gambling Licensing Policy has been considered by external Counsel to ensure that it fulfils the licensing authority's statutory obligations.

8. Equalities Implications

8.1 Developing safe and secure communities is central to the work of the Council as a whole. Reducing and preventing crime, reducing fear of crime and supporting vulnerable communities is critical to the well-being of all our citizens, alongside fair and proportionate approach with businesses.

9. Crime and Disorder Implications

9.1 Section 17 Crime and Disorder Act 1998 places a duty on partners to do all they can to reasonably prevent crime and disorder in their area. The level of crime and its impact is influenced by the decisions and activities taken in the day-to-day of local bodies and organisations. The responsible authorities are required to provide a range of services in their community from policing, fire protection, planning, consumer and environmental protection, transport and highways. They each have a key statutory role in providing these services and, in carrying out their core activities, can significantly contribute to reducing crime and improving the quality of life in their area.

10. Environmental Implications

10.1 The Council's lead officer for environmental matters is an advisor to the Safer Lewisham Partnership and makes representations as appropriate in relation to impact. Environmental services are consulted about all agreed activity before proceeding.

Background Papers

Gambling Act Policy 2016-2019

**If there are any queries on this report, please contact Gary Connors,
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