

MAYOR & CABINET		
Report Title	Statement of Licensing Principles (Gambling Act 2005 Policy)	
Key Decision	Yes	Item No.
Wards	All	
Contributors	Executive Director, Customer Services Head of Law	
Class	Part 1	Date: 5 December 2012

1. Summary

- 1.1 This report informs the Mayor of the proposed statement of principles (also known as the Gambling Policy) which is attached at appendix 1. The statement follows the recommendations of the Gambling Commission.

2. Recommendation

The Mayor is recommended:

- 2.1 To note the statement of principles and to forward it to Full Council for approval and adoption.

3. Policy Context

- 3.1 Members are referred to paragraph 4.2(a) of Article 4 of the Council's Constitution which confirms that the Gambling Policy is a policy which when adopted by members at Full Council, will form part of the Council's overall policy framework. S.349 of the Gambling Act 2005, requires Councils to formally adopt a Statement of Licensing Principles (Gambling Policy) which is renewable every 3 years.

- 3.2 The Council has outlined ten corporate priorities which enables the delivery of the Sustainable Community strategy. The proposed Statement of Principles supports the corporate priority to ensure efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community.

4 Background

- 4.1 The Gambling Act 2005 gives effect to the governments proposals for the reform of the law on gambling. The Act contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received Royal Assent on 7th April 2005.
- 4.2 The Act has introduced a unified regulator for Gambling in Great Britain, the Gambling Commission, and a new licensing regime for commercial gambling (to be conducted by the Commission or by licensing authorities, depending on

the matter to be licensed). The Act removed from licensing justices, (namely the Magistrates' Court,) all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Gambling Commission and Licensing Authorities share between them responsibility for all matters previously regulated by the licensing justices.

- 4.3 On 1 October 2005, the sections of the Act that establish the Gambling Commission were brought into force. The Commission has taken over from the Gaming Board for Great Britain.
- 4.4 In 2007, the Commission became responsible for granting Operating and Personal Licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters. The GA sets out different types of Operating Licence that cover a full range of commercial gambling activities conducted in Great Britain. It also makes provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those subject to the powers
- 4.5 Licensing Authorities have powers to licence gambling premises within their area, as well as undertaking functions in relation to lower stake gambling machines and clubs and miners' welfare institutes. In England and Wales local authorities are given these responsibilities; in Scotland they are given to licensing boards. The Act also provides for a new system of Temporary Use Notices. These authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling, for strictly limited periods.
- 4.6 Licensing Authorities licence gambling premises and issue a range of permits to authorise other gambling facilities in their area. In exercising their functions generally under the Gambling Act, Licensing Authorities must have regard to the Guidance issued by the Commission with respect to their licensees, including the power to impose conditions and to review licences; however, they will not be able to impose financial penalties.
- 4.7 Licensing Authorities are required to prepare, every three years, a statement of the principles which they propose to apply when exercising their functions, and they must publish this statement.
- 4.8 In formulating the statement we must have regard to the Gambling Act, the Guidance issued by the Gambling Commission and the responses from those consulted on the Policy. The statement once adopted, will be the guiding principle for use by officers and members when applying the new gambling regime, along with the GA, the Guidance and regulations published under it.
- 4.9 The statement must be particular to the local authority and be formulated to achieve the government's three core aims of:
 - Preventing gambling from being a source of crime and disorder, being associated with crime and 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

4.10 This Council has carried out a public consultation exercise on the draft statement, to establish local issues of concern and to address those concerns as far as appropriate within the statement.

4.11 Any changes made to the draft statement as a result of representations received during the consultation period, will be noted in bold italics. Whereas the original amendments appear in red. A summary of those changes are:

- Pg1 Dates amended
- Pg3 Population amended
- Pg5 Amended dates for consultation and adoption process
- Pg12 Guidance edition amended
- P14 Para 5 Additional clarification regarding the duplication with planning laws
- Pg15 Para 3 Further clarification regarding Crime in the context of the legislation
- Pg20 Update that Millwall now hold a track licence

4.12 The consultation complied with statutory requirements and included consultation with a range of statutory consultees including the Police, representatives of licensees and other businesses, residents groups other additional parties (further details appear in Appendix 2). The consultation was in the form of, newsletters, meetings and a questionnaire/ comments sheet sent to all existing licensees. The consultation took place between 25th August 2012 and 16th November 2012.

4.13 The statement, once approved must be reviewed from time to time and a new consultation exercise must be conducted every three years prior to producing a new statement of principles.

5. Financial implications

5.1 There are no direct financial implications arising from this report

6 Legal and Human Rights Implications

6.1 Pursuant to section 2 of the Gambling Act, London Borough Councils, are deemed to be Licensing Authorities for the purposes of gambling in England and Wales, and are public authorities for the purposes of the Human Rights Act 1998.

6.2 By section 349 of the GA, and regulations made there under, the Council is required to publish the statement of principles. The function of approval of the statement by full Council for the purposes of this provision cannot be delegated, (section 154.). The consultation process to be followed and matters to be taken into account in developing such policy, as required by the Act and the regulations, are outlined in the report.

6.3 Public Authorities are under a duty to act compatibly with Convention rights in the exercise of their functions. The right to apply for a 'Premises Licence' or 'Permit' falls within civil rights and obligations in Article 6(1) of the Convention because it relates to the applicants' right to make a living and pursue a commercial activity.

6.4 An applicant for such a licence or permit has the right to have the application determined in accordance with the guarantees contained within Article 6(1). A 'Premises Licence' or 'Permit' is considered to be a possession for the purposes of the Human Rights Act 1988. The right to hold such a Licence or Permit is not absolute. It is a qualified right. So, where the grant of a Licence or Permit may affect the interests of local residents or others, in a significant way, then Article 6(1) will be engaged.

7. Equalities Implications

7.1 The Equality Act 2010 (the Act) brings together all previous equality legislation in England and Wales. The Act includes a new public sector equality duty (the equality duty or duties) replacing separate duties relating to race, disability or gender equality. The duty covers the following nine protected characteristics: age, disability, gender reassignments, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.2 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 those who share a protected characteristic and those who do not

7.3 As with the case with the original separate duties, the new duty continues to be a "have regard duty". It is not an absolute requirement to eliminate discrimination or foster good relations.

7.4 An equalities analysis assessment has been undertaken to evaluate the impact on different groups within the borough's diverse community and appears at Appendix 3.

8. Environmental Implications

8.1 The policy makes it clear that each application will be considered on its individual merits taking into account all relevant factors. One of the factors would be the environmental impact of granting the licence in terms of its effects relating to the core objectives.

9. Crime and Disorder

9.1 The Crime and Disorder Act 1998 imposes a duty on every authority to do all it reasonably can to prevent crime and disorder in its area when exercising its functions. Also, one of the three licensing objectives under the GA is 'Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime'. Thus, when representations are made on the prevention of crime and disorder objective in response to licensing applications the Council is required to consider whether the applications are consistent with this objective.

10. Background Papers and report author

10.1 There are no background documents to this report.

10.2 If you would like any further information about this report please contact Cheryl Collins, Licensing Service Manager on 020 8314 6338

Appendix 1 Draft Statement of Principles (Gambling Policy)

Appendix 2 Consultation response information

Appendix 3 Equalities Analysis Assessment

Draft Statement of Principles (Gambling Policy)

Consultation Responses

Response No.	Response comments (Para Nos. refer to Draft Policy)	Officer response
1 - MPS	Nothing further to add	None required

Equalities Analysis Assessment