

Committee: Cabinet	Date: 4 November 2009	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Corporate Director Communities Localities and Culture Originating officer(s) Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Jacqueline Randall Acting Licensing Services Manager		Title: Gambling Act 2005 – Three year review of Gambling Policy Wards Affected: ALL		

1. **SUMMARY**

- 1.1 All Local Authorities have to review and adopt a Policy every three years which defines how they will administer and exercise their responsibilities under the Gambling Act 2005.
- 1.2 A statutory consultation process has taken place and the comments received have been analysed and incorporated into the policy.
- 1.3 The Policy has also been to Licensing Committee on 28th September 2009 and to Overview and Scrutiny Committee on 3 November 2009. Any comments made are included in this report (to be added if appropriate)
- 1.4 The Policy is now before Cabinet for comment and approval.

2. **RECOMMENDATIONS**

Cabinet is recommended to:-

- 2.1 Note that the Gambling Policy will be presented to Full Council on 9 December 2009.
- 2.2 Recommend that Full Council approve the Gambling Policy.

3. BACKGROUND

- 3.1 All relevant local authorities have to review their gambling policy this year (2009) and adopt a new reviewed policy by the end of 2009, as one of the responsibilities they have to administer under the Gambling Act 2005.
- 3.2 The purpose of the policy is to define how the responsibilities under the Act are going to be exercised and administered.
- 3.3 A statutory consultation process has taken place and in addition there was the opportunity for the local community to comment on it if they wished.
- 3.4 Following consultation to the Licensing Committee, these will be tabled at the Cabinet meeting, the amended policy will be presented to Cabinet for adoption.

4. GAMBLING POLICY

- 4.1 The Gambling Act 2005 gives local authorities a range of responsibilities relating to gambling. The Gambling Policy expresses how the Licensing Authority will exercise its authority.
- 4.2 This policy covers the following:
 - How the Licensing Authority will use its regulatory powers in relation to applications and reviews of the activities it regulates, to the extent it is allowed by statute.
 - The main licensing objective for the authority is protecting the vulnerable.
 - The Licensing Authority approach to regulation
 - The scheme of delegation
- 4.3 The content of a gambling policy is heavily prescribed by central government and the Gambling Commission. The policy produced has to comply with guidance issued by both of these bodies. The current policy is compatible with this advice and guidance.
- 4.4 Members should note that some of the major issues and concerns about gambling are not addressed in the policy and in any consultation. For example, gambling addiction is outside the remit of the consultation, as are arguments about the public benefits, or otherwise, of a more liberal gambling regime.

- 4.5 In addition, 'noise nuisance' is not a licensing objective, so the regime will not consider the impact of licensed premises on nearby residents. Any issues relating to noise and nuisance will be dealt with by the Council's Environmental Health Service.
- 4.6 Consultees have not been asked whether they were for or against Casinos. When the Gambling Act came into force there was an opportunity for Councils to bid to be the venue for a limited number of Casinos. At that time this Council decided not to bid. The selection process has now closed and the Gambling Commission has now selected sixteen local authorities that can host either a large or small casino. There is no indication if a further opportunity will arise. If it does the Council will again have to decide if it wants to bid, and if it does, a separate consultation will have to take place.

5. CONSULTATION

- 5.1 As a result of the statutory consultation, details of which are in **Appendix 2**, the Licensing Authority received two responses.
- 5.2 The Fire Brigade state they have no formal comments but ask that the Licensing Authority contact them if, in granting a premises licence under the Gambling Act 2005, we are made aware that this is likely to lead to an increase in the risk to the occupants of the premises. This is a process, not a policy, issue.
- 5.3 The second response was from GamCare (National Association for Gambling Care Educational resources & Training). GamCare advise they are pleased that section 1.5 of the gambling policy requires as a condition, that operators are to display GamCare leaflets, stickers and the helpline number in the premises.
- 5.4 At its meeting on 29 September 2009, the Licensing Committee endorsed the Gambling Policy without amendment. Some issues were raised concerning gambling on the Internet, but these were outside the scope of the policy.
- 5.5 None of the responses received will lead to changes in the policy. If no further amendments or additions come from the programme of Committees that will consider this matter, the Policy will be unchanged except for an updated forward by the Lead Member – Cleaner Greener Safer
- 5.6 The responsibilities the Council have under the Gambling Act 2005 have not generally been controversial. 80 licences have been issued to primarily to betting shops and adult amusement arcades. These businesses are nearly all national companies that have conducted their business within the legal requirements. There have been only 6 contested applications for Gambling Licences. Only 1 has gone on appeal to a magistrates' court.

- 5.7 The draft Gambling Policy is in Appendix 1 to the report. No changes have been made from the current policy. A new foreword by the Lead Member will be added to the policy. This matter is due to be considered by the Licensing Committee. If any changes are proposed they will be included and advised to Cabinet.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 6.1 No specific Financial Implications emanate from this report which seeks Cabinet's agreement to the draft gambling procedure, prior to ratification by full Council.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 7.1 Pursuant to the Gambling Act 2005, the Council is a responsible authority for the licensing of premises used for gambling.
- 7.2 Section 349 of the Gambling Act 2005 requires the Council to prepare a statement of the principles that it proposes to apply in exercising its functions under the Act and to determine and then publish this statement. This statement is more commonly known as a gambling policy. The preparation of the statement of principles is to be undertaken every 3 years. The appointed day for the publication of the Council's first statement was 31st January 2007 and therefore before 31st January 2010, the Council is required to publish a fresh statement although there is no reason why this statement cannot be in the same form as the previous statement as is proposed.
- 7.3 Prior to publishing the statement, the Council must undertake the statutory consultation as provided by section 349(3) of the Gambling Act 2005 and any Regulations made under the Act. Paragraph 5 of the report deals with that consultation and Annex 2 to the draft gambling policy identifies who was consulted. The consultation that has been conducted complies with the legislative requirements.
- 7.4 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 set out the required form of the statement and the draft gambling policy complies with that form.
- 7.5 The 2006 Regulations set out a process that must be followed in respect of publishing the statement and before the statement comes into effect and due to these steps, a minimum of 4 weeks is required between publication and the statement coming into effect.

8. ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 The Equalities Impact Assessment carried out when the Gambling Policy was adopted is being reviewed. The results of this review will be included in the final report to Full Council.
- 8.2 When the policy was first adopted an assessment was made to see if there was a link with deprivation and location of gambling premises. **Appendix 3** shows a deprivation map of the Borough with gambling premises charted on it. Comparison with the situation three years ago shows that there is still no apparent correlation. The map however does not contain the two most common types of retail gambling outlets are not shown namely Lottery outlets (which the Licensing Authority will not regulate at all) and public house with machines, which are granted permits, but not a premises licence. Most of the outlets identified are based in retail areas there is no apparent correlation between gambling premises location and deprivation
- 8.3 A recent report to the Scottish Executive concluded that "disadvantaged social groups who experience poverty, unemployment, dependence on welfare and low levels of education and household incomes are most likely to suffer the adverse consequences of increased gambling. Within these groups, those who are male, single and under thirty are also more likely to be at risk from developed problems with their gambling. In addition, problem gamblers are more likely than non-problem players to have heavy and/or problematic consumption of drugs, alcohol and cigarettes."

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 9.1 There are no SAGE implications for this report

10. RISK MANAGEMENT IMPLICATIONS

- 10.1 There are no risk management issues with the revised policy. When the policy was first adopted there was a financial risk because the statutory fee structure was not set. There was a concern that the fees would not be set at a rate that would ensure full cost recovery.

11. EFFICIENCY STATEMENT

- 11.1 There are no efficiency issues relating to this report

12. **APPENDICES**

Appendix 1 Draft Gambling Policy

Appendix 2 List of Consultees

Appendix 3 Deprivation Map of Gambling Premises in LBTH

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “back ground papers” Name and telephone number of holder
and address where open to inspection.

Gambling Commission Guidance for Local Jackie Randall 0207 364 5109
Authorities