

Committee/Meeting: Cabinet	Date: 13 March 2013	Classification: Unrestricted	Report No: CAB 81/123
Report of: Corporate Director Communities Localities and Culture Originating officer(s) David Tolley Head of Consumer and Business Regulation		Title: Gambling Act 2005 – Three year review of Gambling Policy 2012 Wards Affected: All	

Lead Member	Councillor Ohid Ahmed
Community Plan Theme	A Safe and Cohesive Community
Strategic Priority	Focusing on Crime and Anti-Social Behaviour

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 where necessary.
- 1.3 The Policy has also been to the Licensing Committee on the 18th December 2012 and to Overview and Scrutiny on the 12th March 2013. Any comments made have been included in this report.
- 1.4 The Policy is now before Cabinet for comment and approval.

2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Consider the proposed Gambling Policy and agree that it may go forward to full council for adoption.
- 2.2 Note that it is intended to present the Gambling Policy to Full Council on the 17th April 2013.
- 2.3 Recommend that Full Council approve the Gambling Policy.

3. REASONS FOR THE DECISIONS

- 3.1 All relevant local authorities have to review their gambling policy, as one of the responsibilities they have, 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.
- 3.4 Following consultation the amended policy will ultimately go to Cabinet and the full Council for adoption.

4. ALTERNATIVE OPTIONS

- 4.1 Pursuant to the Gambling Act 2005, the Council is a licensing authority for the licensing of premises used for gambling. If the Council did not have a policy it would be acting ultra vires with regards to any decisions it makes determining gambling premises licences. This course of action is not recommended.
- 4.2 The Regulations specify matters that the Council's gambling policy must contain. The Council is also required to have regard to guidance issued by the Gambling Commission, which also specifies requirements for gambling policies. If the Council did not comply with the Commission's guidance, then it would need to have good reasons for failing to do so. The content of the proposed gambling policy is recommended having regard to the requirements in the Act, Regulations and guidance.

5. BACKGROUND

- 5.1 Licensing local authorities in England and Wales have all been required by the Gambling Act 2005 to adopt a gambling policy.
- 5.2 The policy sets out in detail how the licensing authority will discharge its licensing functions under the Gambling Act 2005.
- 5.3 There are three licensing objectives set out in the Act:
 - *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime*
 - *Ensuring gambling is conducted in a fair and open way*
 - *Protecting children and other vulnerable people from being harmed or exploited by gambling.*

6. BODY OF REPORT

- 6.1 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.
- 6.2 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
- 6.3 The 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.
- 6.4 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.
- 6.5 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 other Council Service's.
- 6.6 As a result of the statutory consultation the Licensing Authority received four responses. Consultation took place with local licence holders, responsible authorities, gambling support groups, faith groups, housing associations, Licensing Committee and also received representations from some Councillors.
- 6.7 The Gambling Best Practice Guide for businesses was introduced after consultation with Key Members in order to strengthen policy specific to the protection of vulnerable groups.
- 6.8 The responsibilities that the Council has under the Gambling Act 2005 have not generally been controversial. Approximately 80 licences have been issued, primarily to betting shops and adult amusement arcades. These businesses are nearly all national companies that have conducted their business within legal requirements.
- 6.9 The draft Gambling Policy is in Appendix 1 to this report. As the current policy continues to addresses all relevant priorities within the statutory scope of the

exercise and it has been operating effectively no further changes are proposed to the current policy with the exception to those outlined above.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 There are no specific financial implications emanating from this report. The report updates Cabinet on its responsibilities under the Gambling Act 2005 and sets out for consultation the adoption of the revised Gambling Policy. The service will need to ensure that adoption of the policy is deliverable within existing budgeted resources.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1 Pursuant to the Gambling Act 2005, the Council is a licensing authority and, as such, is also a responsible authority for Tower Hamlets. The Council's functions as a licensing authority include the licensing of premises used for gambling.
- 8.2 As set out in paragraph 5.3 of the report, the Gambling Act sets out three licensing objectives, which the Council is required to have regard to when exercising specified functions. When exercising its functions in relation to premises licences, the Council is required by section 153 of the Gambling Act to permit the use of premises for gambling to the extent that the Council thinks it –
- In accordance with any relevant code of practice.
 - In accordance with any statutory guidance issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives.
 - In accordance with the Council's gambling policy
- 8.3 The Council may not have regard to the expected demand for the proposed facilities when determining whether or not to grant a premises licence.
- 8.4 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.
- 8.5 Under section 166 of the Gambling Act, the Council may resolve not to issue casino licences. The gambling policy must include reference to any such resolution by the Council.
- 8.6 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 ("the Regulations") set out requirements for the content of a gambling policy. The policy must include –

- An introductory section which summarises the matters dealt with in the statement, a description of the geographical area in which it applies (i.e. Tower Hamlets) and a list of the persons consulted in preparing the statement (see Part A, section 2 of the proposed policy).
- The principles to be applied by the Council when designating a body competent to advise about the protection of children from harm (see Part A, paragraph 4.1 of the proposed policy).
- The principles to be applied by the Council to determine whether a person is an interested person in relation to a premises licence or an application for such a licence (see Part A, paragraph 5.3 of the proposed policy).
- The principles to be applied by the Council in relation to the exchange of information with the Gambling Commission and other specified persons (see Part A, paragraph 6.2 of the proposed policy).
- The principles to be applied by the Council in relation to the inspection of premises and the institution of criminal proceedings (see Part A, section 7 of the proposed policy).

8.7 The Council is required when carrying out its licensing functions to have regard to guidance issued by the Gambling Commission. The Gambling Commission has issued Guidance for Licensing Authorities, 4th Edition, September 2012, which includes guidance on the preparation of statements of principles, including the content of such statements. The proposed policy appears to be consistent with the Commission's guidance. Particular reference is made to the following matters which the guidance states should be included in the gambling policy –

- The policy should begin by stating the three licensing objectives (see Part A, section 1 of the proposed policy).
- The policy should state that the authority will aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act (see Part A, paragraph 1.3 of the proposed policy).
- The policy should include a firm commitment to avoid duplication with other regulatory regimes (see Part B, paragraph 4.1 of the proposed policy).
- The policy should specify factors the Council may take into account when considering applications for premises licences, permits and other permissions (see Part B of the proposed policy).
- The policy should specify matters the Council will consider relevant when determining whether to review a licence (see Part B, paragraph 16.1 of the proposed policy).

8.8 Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 specifies functions related to the formulation or preparation of plans or strategies identified in Schedule 3 to the Regulations which are not to be the responsibility of a local authority executive. The gambling policy is one of the identified plans and strategies. The adoption of the gambling policy is one of the functions which may not be the responsibility of the executive (see Regulation 4(3)(d)). The Council's Constitution reflects

this requirement by including the gambling policy in the Council's budget and policy framework. Pursuant to Article 4.01 of the Council's Constitution it is for full council to approve the gambling policy.

- 8.9 When preparing revisions to its statement of licensing policy, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Information is included in the report relevant to these considerations.
- 8.10 The gambling policy must be published for a period of 4 weeks before it takes effect. The Regulations specify the ways in which the policy is to be published and the information that must be included.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The Equalities Analysis Quality Assurance Checklist has been reviewed in respect of this policy and no adverse issues have been identified [Appendix 2]

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 There are no environmental impacts with regards to this policy.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 There are no risk management issues with the revised policy.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 One of the key licensing objectives is to prevent gambling from being a source of crime and disorder. The policy supports and assists with crime and disorder reduction by controlling those who are able to offer gambling to members of the public and imposing conditions on relevant premises licences.

13. EFFICIENCY STATEMENT

- 13.1 There are no efficiency issues relating to this report.

14. APPENDICES

Appendix 1 – Gambling Act 2005 –London Borough of Tower Hamlets
Gambling Policy 2012
Appendix 2 – Equalities Analysis Quality Assurance Checklist

**Local Authorities (Executive Arrangements) (Access to Information) (England)
Regulations 2012**

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
None	David Tolley, Head of Consumer and Business Regulations 0207 364 6724