

<b>Cabinet</b>  30 October 2019	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Ann Sutcliffe, Corporate Director Place	<b>Classification:</b> Unrestricted
<b>Gambling Policy 2019 - 2022</b>	

<b>Lead Member</b>	<b>Councillor David Edgar, Cabinet Member for Environment</b>
<b>Originating Officer(s)</b>	David Tolley, Head of Environmental Health and Trading Standards
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No (Council Decision)
<b>Forward Plan Notice Published</b>	N/A
<b>Reason for Key Decision</b>	Impact on Wards
<b>Strategic Plan Priority / Outcome</b>	A Borough that our residents are proud of and love to live in.

### Executive Summary

As a Licensing Authority the Council must review the existing Gambling Policy and adopt a new policy in November 2019, as one of the responsibilities it has to regulate 'high street' premises under the Gambling Act 2005. The purpose of the policy is to define how the responsibilities under the Act are going to be exercised and administered.

The Act requires licensing authorities to aim to permit the use of premises for gambling in so far as it is in accordance with the regulatory framework (any codes of practice and Gambling Commission guidance) This means that the council can only refuse gambling that is not in accordance with the codes of practice and guidance and cannot for example ban gambling or specific forms of gambling.

Subject to agreement the Policy will be presented to Full Council for adoption under the provisions set out by the Council's Constitution

### Recommendations:

The Mayor in Cabinet is recommended to:

1. To recommend to Full Council the adoption of the revised Gambling Policy

## **1 REASONS FOR THE DECISIONS**

- 1.1 All relevant local authorities are required under the Gambling Act to review their gambling policy.
- 1.2 The purpose of the policy is to define how the responsibilities under the Act are going to be exercised and administered.
- 1.3 A statutory consultation process must take place prior to the adoption of the revised Gambling Policy by Full Council.

## **2 ALTERNATIVE OPTIONS**

- 2.1 Pursuant to the Gambling Act 2005, the Council is a responsible 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.
- 2.2 The Gambling Commission has laid down guidance which the Council must have regards to in carrying out their functions under the Act, including setting their Gambling Policy. Departure from the guidance without good reason could leave the council at risk of judicial challenge. The Gambling Commission guidance has been followed in drafting the revised Gambling Policy. The policy focuses on the elements covered by the licensing objectives.

## **3 DETAILS OF THE REPORT**

- 3.1 The Gambling Act 2005 gives local authorities a range of responsibilities relating to gambling. The Gambling Policy states how the Licensing Authority will exercise this responsibility and authority.
- 3.2 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
- 3.3 The Gambling Policy complies with guidance issued by the Gambling Commission.
- 3.4 Members should note that some of the major issues and concerns about gambling are not addressed in the policy or by the approach of the 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.

- 3.5 The responsibilities the Council has under the Gambling Act 2005 have not been controversial. To date, 80 licences have been issued. These have primarily been to betting shops and adult amusement arcades. These businesses are nearly all national companies that have conducted their business within the legal requirements. The number of premises in a particular area is not a ground for objection.
- 3.6 The Council does not have the powers within its Gambling Policy to regulate on-line gambling sites. All gambling websites trading with, or advertising to, consumers in Britain must have a Gambling Commission licence issued by the Gambling Commission.
- 3.7 Betting shops were removed from their previous A2 use class and made a 'sui generis' use. As such planning permission is now required to change the use from any other use to a betting shop. This has meant that there is slightly more control under planning legislation to control the growth of Betting Shops.
- 3.8 Planning powers cannot control existing betting shops if they have already opened up under a permitted change of use (i.e. before the recent changes to the use class order moving betting shops from A2 to 'sui generis'), however any further change of use applications for a betting shop would be subject to a planning application. As part of the determination of the application, issues such as the number of betting shops in the surrounding area could be a consideration if the area was becoming saturated with betting shops.
- 3.9 There have been several concerns raised though London Councils concerning the fixed odds betting terminals (FOBT's) that have been installed within betting shops. These B2 gambling machines play games of chance such as roulette. With a betting shop licence, the operator can install up to four machines, which have a maximum stake of £100 and a maximum prize of £500. London Councils along with others have successfully lobbied Government to reduce the maximum £100 stake on B2 machines to £2 which will assist with the prevention of the clustering of betting shops due to the profitability of such gambling machines. The reduction in the maximum stake to £2 commences in April 2019. Tower Hamlets was a signatory to this campaign.
- 3.10 We have not experienced the same volume of applications in gambling as we have in other areas of licensing. There has been one application since 2014, this was for a Paddy Power Shop in Roman Road. This application was objected to by the community, but after consideration by the Licensing Sub Committee and legal advice the licence was issued.
- 3.11 The issues of betting shop clustering and concern over fixed odd betting terminals (FOBT) have shown that gambling generates extremely strong feelings. Whilst licensing authorities do not have the powers to refuse new applications or limit FOBT machines, the requirement for operators to prepare

local risk assessments in relation to their premises from April 2016 means that licensing authorities need to set out their expectations within their statements of Gambling Policy.

- 3.12 The only controversial applications have been where betting shops have applied to open in close proximity to schools or places of worship. The powers the Council have are limited and it is not possible to make either policy or decisions regarding this issue under the Gambling Policy.
- 3.13 The consultation period took place from the 4<sup>th</sup> April to the 27<sup>th</sup> June 2019 and was publicised on line with letters being sent to the organisations detailed in Appendix One.
- 3.14 The changes made to the Gambling Policy are detailed within Appendix Two and have been made subject to regulatory change and updates from the Gambling Commission guidance. The changes covered the following areas:
- Updates in relation to the Councils functions
  - Further details on responsibilities with regards to child protection, interested parties, exchange of information and inspection/enforcement procedures
  - Further explanation and detail on the licensing objectives that need to be maintained
  - Additional consideration of the type of gaming premises – Betting Shops, Adult Gaming centres, Family Entertainment Centres, etc.
  - Updated requirements for business risk assessments and profile in relation to gaming
  - Additional information on Hearings and reviews
- 3.15 During the consultation process a number of representations were made, these are detailed in Appendix Three. We have reviewed the comments made therein and have made changes to the original consulted document in relation:
- Location and Local Risk assessments (Public Health)
  - Additional details on voluntary exclusion schemes to protect children and vulnerable adults (GamCare)
  - Sharing of local area risk assessments – to be in consultation with the Operators and the Gambling Commission (William Hill and Paddy Power)
- 3.16 It is proposed that the current ‘no casino’ resolution that is currently in the existing policy remains.
- 3.17 The revised Gambling Policy that is due to take effect from December 2019 is detailed within Appendix Four.
- 3.18 An Equalities checklist has been undertaken as is at Appendix Five.

- 3.19 Five of the UK's biggest bookmakers – Bet 365, Flutter, GVC, Sky Betting and Gaming, and William Hill – have pledged to spend 1% of gross gambling yields on promoting safer gambling. Once fully scaled up, the pledge will see around £60m a year spent on preventing problem gambling, including around £6m a year for UK charity Gamble Aware. The announcement comes after the Gambling Commission revealed it had fined gaming companies nearly £20m last year for failing to protect the UK's 460,000 problem gamblers. Conservative peer Lord Chadlington, who champions safer gambling, said it was important that the programmes that receive funding are evaluated "independent of the contributing companies and the gambling industry as a whole.
- 3.20 The Licensing Committee have reviewed the Policy and have raised concerns about the local area profiles not identifying vulnerable groups. This will be considered during the review of the profiles.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 The Equalities Impact Assessment has been reviewed in respect of this policy and no adverse issues have been identified.

#### **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration.
- 5.2 Best Value: The Gambling policy details the regulatory approach to gambling establishments with the Borough. The fees imposed for the licence are set by government and have been adopted by the Licensing Committee. The fees cover the cost of regulating and administrating the Gambling Policy.
- 5.3 Crime Reduction: 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.
- 5.4 Safeguarding: A statutory licensing objective of the Gambling Policy concerns the protection of children and other vulnerable persons from being harmed or exploited by gambling. The Policy details how regulation through licensing promotes this objective.
- 5.5 Risk Management: There are no risk management issues with the revised policy or the consultation process.
- 5.6 Environmental and consultation implications: There are no negative environmental impacts with regard to this policy or the consultation process

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 There are no financial implications emanating from this report which updates the Council's policy on issuing gambling licenses. The Council generates a small income stream from issuing licenses which covers the cost of inspections. This forms part of the existing licensing revenue budget and is not impacted on by this report.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 Section 349 of the Gambling Act 2005 ('the Act') 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 legal requirement is for the preparation of the statement of principles to be undertaken every 3 years. The current statement of policy was published on 5<sup>th</sup> December 2016, and therefore any revised statement should be adopted before 5 December 2019
- 7.2 The Council has undertaken the statutory consultation as provided by section 349(3) of the Act as referred to in paragraph 3.13 of the report Appendix 3 to the report states the responses received in respect of the consultation, which have been taken into account when updating the report.
- 7.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 states that a minimum of 4 weeks is required between publication and the statement coming into effect.
- 7.5 Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the adoption of the Gambling Policy is a Council function. This is reflected in the Constitution, under which it is a policy framework document, and must follow the procedure set out in the Budget and Policy Framework Procedure Rules prior to adoption by Council. This requires pre-decision scrutiny by the Overview & Scrutiny Committee and recommendation to Council by Cabinet. If Council wishes to change the recommendation, then the matter is referred back to Cabinet and in due course back to Council.
- 7.6 In carrying out its functions, 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 do not (the public sector equality duty). An equality analysis quality assurance checklist has been completed which specifically considers the licensing objectives in relation to protecting children and other vulnerable persons from being harmed or exploited by gambling.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

NONE

### **Appendices**

- Appendix One: List of Consultees
- Appendix Two: Statement of Gambling Policy review – Proposed Changes 2019-2022
- Appendix Three: Responses to the Gambling Policy Consultation 2019
- Appendix Four: Gambling Policy 2019-2022
- Appendix Five: Equalities Impact Checklist

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

NONE

### **Officer contact details for documents:**

N/A