

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 12 NOVEMBER 2018

COUNCIL – 11 DECEMBER 2018

Title:

**GAMBLING ACT 2005 – REPORT FOLLOWING PUBLIC CONSULTATION ON
REVIEW OF THE COUNCIL'S
STATEMENT OF GAMBLING POLICY**

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to formally invite the Licensing Committee to consider the draft Statement of Licensing Principles : Gambling Policy (SLP) , for the period January 2019 – December 2021 and the responses received to the consultation

How this report relates to the Council's Corporate Priorities:

Licensing contributes to improving lives and protecting the environment in Waverley.

Financial Implications:

There are no immediate resource implications in this report.

Legal Implications:

There are legal implications for the Council in that it will need to be prepared to defend the revised Policy, if challenged. Members will note that the existing policy has worked well for the past three years. The Human Rights implications are set out later in the report.

Background

1. The Act gives the Council the responsibility for granting gambling premises licensed within the Waverley Borough Council area. The main functions are to issue licences, permits and registrations. However, the overall control of gambling regulation in the United Kingdom rests with the Gambling Commission along with the responsibility for granting operating and personal licences.
2. Section 349 of the Act requires all Councils to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. The SLP must be kept under review, and it must completely review and republish the SLP every three years. The Policy must include information stipulated within the Gambling Commission's Guidance to Licensing Authorities in England and Wales.

3. The Council's SLP was first adopted by the Council in December 2006. It has been reviewed and updated several times with the last updated policy coming into effect on 31 January 2016.
4. The Council's current Policy has been in place since 31 January 2016 and in accordance with legislation has undergone a full review and public consultation.
5. The Gambling Commission requires that the Statement of Gambling Policy must be reviewed, adopted and published by January 2019.
6. The timetable for the review of the current policy and implementation of the new policy is as follows:
 - Commence review, write to consultees and place consultation information on the website on 13 August 2018
 - Consultation period ends 05 November 2018 (12 weeks) - followed by:
 - Licensing and Regulatory Committee 12 November 2018
 - Council 11 December 2018
 - Published on Council's website 3 January 2019
 - Policy comes into effect 31 January 2019

Statement of Gambling Policy - public consultation

7. The policy has been reviewed by officers before being published for a 12-week public consultation period, which commenced on 13 August 2018 and ended on 5 November 2018.
8. A draft revised SLP, incorporating the changes/amendments from the existing SLP and reflecting revised Gambling Commission Guidance issued in 2015, is attached at Annexe 1. The tracked changes are shown in red type..
9. The Act requires the licensing authority to consult on its SLP with the Police; those who represent the interests of gambling businesses in their area; and those which represent interested persons likely to be affected (Section 349(3)). In addition to the statutory consultees including the Local Safeguarding Children's Board and the Public Health Team consultation has been conducted through a written process to Citizens Advice Centres, Chambers of Commerce, Town and Parish Councils and via the Council's website.
10. The Policy has worked well for the Council as licensing authority and no adverse comments have been made during the consultation process by the designated Responsible Authorities under the legislation.

11. There have been 3 responses at the time of writing the report, two with no proposed amendments and one from HRMC updating their postal contact address and telephone number.

If any further responses arrive before the closing date of 5 November 2018 they will be tabled at the meeting.

The Statement of Gambling Policy: Issues for consideration

The licensing authority can only consider matters within the scope of the Act, Guidance and associated Codes of Practice and cannot become involved in the moral issues in relating to gambling.

12. The Act places a duty on the Council to develop a statement of principles that promotes the three licensing objectives of the Act, which are:
 - preventing gambling from being a source of crime and disorder;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and vulnerable persons from being harmed or exploited by gambling.

In addition, consideration should be given to the needs of businesses within the Borough.

13. Since the introduction of the Gambling Act 2005, Waverley Borough Council has experienced no issues with any of its licensed gambling premises. Waverley has nine betting premises and one regular yearly Occasional Use Notice for the Peper Harow point-to point race.

Human Rights Implications

14. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. Although there are no direct implications in this report, the Council will have regard to the following matters in considering applications for licences under the Act.
15. Article 1 of the First Protocol of the ECHR provides for the protection of private property and possessions. In addition to Article 1 of the First Protocol, the Council must comply with the principles of Article 6, which provides for the right to a fair hearing in determining civil rights and obligations. This necessitates a fair and public hearing undertaken within a reasonable time by an independent and impartial tribunal established by law. In providing for determination of licensing matters by a local authority the legislation also provides for appeal to the Magistrates' Court, so that there is access to an independent and impartial tribunal and a public hearing.
16. Article 8 of the Convention says that everyone has the right to respect for his private and family life, his home and his correspondence. Accordingly, when making decisions on the grant of licences, the Council (the Committee) will

consider representations on the effect of businesses on the amenities of residents living in the vicinity of premises which benefit from the licences.

Conclusion

17. The Committee is asked to
- (a) consider the comments on the SLP following the consultation exercise on the draft revised Gambling Policy
 - (b) consider and amend draft Gambling Policy in light of the consultation responses received; and
 - (c) recommend the Policy to Full Council. The Policy is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Licensing & Regulatory Committee, and the activity under the Policy is in the remit of this Committee.

Recommendation

That the Licensing & Regulatory Committee considers the representations to the Statement of Licencing Principles: Gambling Policy and recommends to the Full Council that the new Policy is adopted on 11 December 2018.

Background Papers

The Gambling Act 2005,

Gambling Commission Guidance to licensing authorities (September 2015),
<https://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

Gambling Commission licensing local authority bulletin Statements of Licensing Policy 2019 - 2022
<https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-January-2018.pdf>

Gambling regulation: Councillor handbook (England and Wales)
<https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>

CONTACT OFFICER:

Name: Paul Hughes

Telephone: 01483 523189

E-mail: paul.hughes@waverley.gov.uk