

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 26 NOVEMBER 2015

EXECUTIVE – 1 DECEMBER 2015

COUNCIL – 15 DECEMBER 2015

Title:

**GAMBLING ACT 2005 - 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 enable the Council to consider comments (IF ANY) on the three-year review of the Statement of Gambling for Waverley, against which applications for licences under the 2005 Gambling Act (the Act) are considered.

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 Gambling Act 2005 requires the Council to have a Statement of Gambling Policy that it keeps under review, and that it must completely review and republish the Policy every three years. The Policy must include information stipulated within the Gambling Commission's statutory Guidance to Licensing Authorities in England and Wales.
2. The Council's current Policy has been in place since 31 January 2013 and in accordance with legislation must this year undergo a full review and public consultation.

3. The policy has been reviewed by officers and was sent to external Counsel for consideration before being published for a six-week public consultation, which commenced 9 October and ended 20 November 2015.

Statement of Gambling Policy - public consultation

4. The Council's Statement of Gambling Policy was first adopted by the Council in December 2006, published on 3 January 2007 and came into effect on 31 January 2007. It has been reviewed and updated several times with the last updated policy coming into effect on 31 January 2013. The draft revised Statement of Gambling Policy must be published at least 28 days before it comes into effect in January 2016.
5. A draft revised Statement of Gambling Policy, incorporating the changes/amendments from the existing Statement of Gambling Policy and reflecting revised Government Guidance issued in October 2015, is attached at Annexe 1. The tracked changes are shown in red type.
6. The consultation has been conducted through a written process to all Responsible Authorities, bodies representing existing licence holders, representatives of registered clubs, Citizens Advice Centres, Chambers of Commerce, Town and Parish Councils and via the Council's website.
7. 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 9 October 2015
 - Consultation period ends 20 November 2015 (6 weeks) - followed by:
 - Licensing and Regulatory Committee 26 November 2015
 - Executive 1 December 2015
 - Council 15 December 2015
 - Published on Council's website 3 January 2016
 - Policy comes into effect 31 January 2016
8. The Policy has worked well for Council (the Licensing Authority) and no adverse comments have been made by the Responsible Authorities designated under the legislation.
9. There have been no responses at the time of writing the report, and any that do arrive before the closing date of 20 November 2015 will be tabled at the meeting.

The Statement of Gambling Policy

10. The Council's Statement of Gambling Policy must promote the three licensing objectives of the Gambling Act 2005, which are:

- Preventing gambling from being a source of crime and disorder
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and vulnerable persons from being harmed or exploited by gambling.

11. 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 a point to point race at Peperharow.

Human Rights Implications

12. 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 Gambling Act 2005.
13. 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.
14. 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

15. The Licensing and Regulatory Committee has been asked to consider any comments received on the Statement of Gambling Policy and make its recommendations for amending the Policy. These will be sent to the Executive after the meeting. The Policy is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Executive, and the activity under the Policy is the remit of the Licensing and Regulatory Committee and its Licensing Act Sub-Committees.

Recommendation

It is recommended that the Executive receives any recommendations from the Licensing and Regulatory Committee so that the final revised version of the

Statement of Gambling Policy for Waverley can be recommended to and approved by the Council and formally adopted in order for the new Policy to be published on 3 January 2016 and in place by 31 January 2016.

Background Papers

Gambling Act 2005, Licensing Conditions & Codes of Practice (LCCP) and revised Gambling Guidance September 2015

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