

Licensing Committee 26 April 2016

Council 18 May 2016

The Gambling Act 2005: Review of Lambeth Statement of Principles 2016-19

Wards: All

Report Authorised by: Strategic Director for Neighbourhoods and Growth: Sue Foster

Portfolio: Cabinet Member for Healthier and Stronger Communities: Councillor Jim Dickson

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Report summary

Under the Gambling Act 2005, the Council is required to publish a statement of principles every three years setting out how it will regulate gambling premises in the borough. Lambeth's existing Gambling Act 2005 statement of principles (2013-2016) expired on 30 January 2016 and is now due for review and renewal. At this stage, it is proposed to make no fundamental changes and simply re-adopt the current statement of principles with some small revisions, effective from 20 June 2016.

The statutory guidance governing the scope and content of gambling policies changed significantly in September 2015, and during the next 12 months it is intended to undertake a more comprehensive review of Lambeth's gambling policy which will allow time for the content of the new guidance to be considered and a new local draft statement of principles to be developed.

Finance summary

The review of the statement of principles is funded from existing budgets, and there are no further financial implications arising from the recommendations of this report.

Recommendations

Licensing Committee

- (1) That the Council resolves not to issue Casino Premises Licences for three years commencing from 20 June 2016, subject to any further resolution as provided for by Section 166 of the Gambling Act 2005.
- (2) That the draft Statement of Principles appended to this report be recommended to full Council on 18 May 2016 for formal adoption and approval.

Council

- (1) That Council resolves not to issue Casino Premises Licences for three years commencing from 20 June 2016, subject to any further resolution as provided for by Section 166 of the Gambling Act 2005.
- (2) To adopt the Gambling Act 2005 Statement of Principles appended to this report.

1. Context

1.1 The Gambling Act 2005 introduced a new licensing regime for gaming and betting administered through a combination of the Gambling Commission and local licensing authorities.

1.2 The Act regulates the following sectors:

- Arcades
- Betting
- Bingo
- Casinos
- Gambling software
- Gaming machines
- Lotteries
- Remote gambling

1.3 The Gambling Commission is responsible for licensing operators and individuals involved in providing the above activities.

1.4 Licensing authorities are responsible for:

- Issuing gambling operators with premises licenses
- Issuing gambling operators with permits (which allow low stakes gambling in venues which are not primarily for gambling)
- Registering societies – allowing them to hold small lotteries
- Compliance and enforcement of the Gambling Act 2005 locally

1.5 In carrying out their functions under the Gambling Act 2005, particularly with regard to premises licenses and temporary use notices, all licensing authorities must aim to permit the use of premises for gambling in so far as they think it:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with the guidance for licensing authorities issued by the Gambling Commission
- Reasonably consistent with the licensing objectives
- In accordance with the authority's statement of licensing principles

1.6 Licensing authorities are required to review and publish, every three years, a statement of the principles which they propose to apply when exercising their licensing functions. This authority's statement of principles (The London Borough of Lambeth Gambling Act 2005 Statement of Principles) was first published in January 2007. It has been subject to several reviews and amendments to reflect changes to policy and guidance over the years. The current version of the statement of principles (2013-2016) was approved by Full Council in January 2013 and is now due for review and renewal.

2. Proposal and Reasons

2.1 In September 2015 the Gambling Commission published the fifth edition of its guidance to local licensing authorities. The revised guidance includes a range of amendments which seek to:

- Reinforce the importance of partnership working between licensing authorities and local businesses to mitigate risks to the licensing objectives
 - Reflect changes to the social responsibility provisions within the Commission's Licence conditions and codes of practice (LCCP)
 - Provide guidance on the requirement for all premises operators to conduct a local risk assessment in order to understand the risks associated with the areas they have, or wish to have, a gambling premises
 - Promote local partnership working between licensing authorities and local gambling operators to facilitate a coordinated approach to local issues
 - Provide greater clarity about the range of powers afforded to licensing authorities to manage local gambling regulation, balanced by the statutory aim to permit gambling subject to reasonable consistency with the licensing objectives
- 2.2 The changes contained in the Gambling Commission's guidance are considered to be crucial to the revision of this authority's own statement of principles. In order to allow time to develop a new local draft statement of principles which incorporates these new considerations, it is proposed to take a two staged approach:
- a) Conduct a short formal consultation to re-adopt the current Gambling Act 2005 Statement of Principles (2013-16). This consultation ended on 17 April 2016.
 - b) Start work on a comprehensive review of the authority's gambling policy, taking account of changes introduced in the fifth edition of the Gambling Commission guidance to local licensing authorities (published September 2015). This will include development of a new local draft statement of principles during 2016, which will be reported back to Licensing Committee before going out to full public consultation in January 2017. The final revised policy document will then be presented to the Committee and Full Council for adoption in May 2017.

Revisions to the content of the statement of principles for purposes of accuracy

- 2.3 A copy of the draft Lambeth Gambling Act 2005 statement of principles 2016-19 is attached at Appendix B. A summary of the proposed changes is attached at Appendix A.
- 2.4 At this stage, the only changes that have been made to the content of the 2013-16 statement of principles are those that have been necessary to deal with inaccuracies that have developed since the original publication of the statement of principles. These are:
- 'About Lambeth' commentary updated with information from the latest 'State of the Borough' report (2014) and reference to previous Corporate Plan outcomes deleted.

- Inclusion of the 'Regulators Code' within the licensing authority's enforcement principles (Part 1).
- Dates updated as necessary throughout.
- Contact details within Appendix C updated.

2.5. All other content of the 2013-16 statement of principles is left unchanged as this point in time.

2.6. It is proposed that the current 'no casino' resolution that is in the existing statement remains.

3. Finance

3.1 Costs associated with the review of the statement of principles and consultation process will be funded from existing budgets.

4. Legal and Democracy

4.1 Section 349 of the Gambling Act 2005 (the Act) requires the Council to prepare and publish triennially a statement of the principles it proposes to apply in exercising its function under the Act (a document commonly known as a Gambling Policy or Statement of Gambling Policy – hereinafter referred to as the Gambling Policy). A licensing authority may review and revise their Gambling Policy within each three year cycle.

4.2 Prior to publishing its Gambling Policy, the Council must undertake the statutory consultation as provided by section 349(3) of the Act and Regulations made under it. This requires that the Council consult with: the chief officer of police; one or more persons who represent the interests of gambling businesses in the borough and one or more persons who represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Gambling Act.

4.3 Regulations 4 to 6 of the Gambling Act 2005 (Licensing Authority Policy Statement) (England & Wales) Regulations 2006 specifies the requirements for the content and form of the Gambling Policy. Regulation 7 specifies the steps that must be taken post adoption of the Gambling Policy and before it takes effect, namely:

7(1) Before a statement.....comes into effect, the authority that prepared it must—

(a) publish the statement or revision in accordance with paragraph (2); and

(b) advertise the publication of the statement or revision by publishing a notice in accordance with paragraphs (3) and (4).

(2) The statement or revision must be published by being made available for a period of at least 4 weeks before the date on which it will come into effect—

(a) on the authority's internet website; and

(b) for inspection by the public at reasonable times in one or both of the following places—

(i) one or more public libraries situated in the area covered by the statement or revision;

- (ii) *other premises situated in that area.*
- (3) *The notice referred to in paragraph (1)(b) shall specify—*
 - (a) *the date on which the statement or revision will be published;*
 - (b) *the date on which the statement or revision will come into effect;*
 - (c) *the internet address where the statement or revision will be published in accordance with paragraph (2)(a); and*
 - (d) *the address of the library or other premises at which the statement or revision may be inspected in accordance with paragraph (2)(b).*
- (4) *That notice shall be published no later than the first day on which the statement or revision is published in accordance with paragraph (2)—*
 - (a) *on the authority's internet website, and*
 - (b) *in or on one or more of the following places—*
 - (i) *a local newspaper circulating in the area covered by the statement;*
 - (ii) *a local newsletter, circular, or similar document circulating in the area covered by the statement;*
 - (iii) *a public notice board in or near the principal office of the authority;*
 - (iv) *a public notice board on the premises of public libraries in the area covered by the statement.*

In summary, the above specifies that a minimum of 4 weeks is required between publication of the Gambling Policy and its coming into effect.

4.4 Section 166 of the Act provides that a Licensing Authority may resolve not to issue Casino Premises Licences (a No Casino Resolution) and to specify the date upon which that resolution takes effect. This decision must be taken by Council and published in the authority's Gambling Policy. This report recommends that the Council resolves to pass a No Casino Resolution. In making this decision, the Council may take into account any principle or matter and not just the licensing objectives. The licensing objectives in respect of the Gambling Act 2005 are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.5 Paragraph 5 refers to the statutory consultation undertaken for the purposes of this report and the persons and bodies consulted. The following principles of consultation were set out in a recent High Court case: First, a consultation had to be commenced at a time when proposals were still at a formative stage. Second, those consulted had

to be provided with accurate and sufficient information and reasons for any proposal to permit intelligent consideration; with adequate time given for the consulting party to respond and for those responses to be considered. Third, the product of consultation must be conscientiously taken into account. Overall, the process of consultation had to be effective and looked at as a whole it had to be fair. Fairness might require consultation not only upon the preferred option, but also upon discarded or alternative ones. The Council is obliged to take account of any representations made and any material objections received will need to be reported back to the decision maker. All representations received must be properly considered in the light of administrative law principles, Human Rights law and the relevant statutory principles.

- 4.6 Under the Council's constitution (page 32, Part 2 –Section 1), the Licensing Committee's remit includes the power: "To exercise the functions, powers and duties of the Council in relation to all licensing matters, as required by statute". Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the Council's Gambling Policy is required to be part of the Council's policy framework and adoption of that Policy falls to be made by full Council.
- 4.7 Section 149 of the Equality Act 2010 sets out the public sector equality duty, i.e. that all public bodies are under an obligation to have 'due regard' to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.
- 4.8 Section 149 (1) (b) of the Act states that: a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Part of the duty to have "due regard" where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim.
- 4.9 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.

5. Consultation and co-production

- 5.1 Section 349 of the Gambling Act 2005 specifies those persons and groups with whom we must consult for the purposes of this report.
- 5.2 Notification of this authority's intention to seek to readopt the 2013-2016 statement of principles was provided to the following relevant parties:
- The chief officer of police
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling in the authority's area, including the following responsible authorities identified under the Act: the Gambling Commission, HM Revenue and Customs, the London Fire Brigade, and Lambeth's Planning, Neighbourhood Enforcement, Community Safety and Children's Services

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions, including:
 - The individuals and organisations who hold Premises Licences issued by the authority under the Act
 - The organisations who have applied for or hold gaming machine permits for multiple or high-profile premises within the borough
 - Representative bodies within the gambling and leisure industry
 - All elected ward councillors

5.3 In addition to the above an online questionnaire was hosted on the council's website for the duration of the consultation period.

5.4 There was one response to the consultation, received from the Chair of Lambeth Safer Neighbourhood Board. The Board support the two stage approach to the review of Lambeth's gambling policy, and are keen to be involved in the wider review of the policy later in the year. The Board also suggest that consideration be given to whether in the interests of overall crime prevention and reduction in the borough, an "advisory" condition of licensing should be that owners/managers of premises licenced for gambling should be registered with the borough's Business Crime Reduction Partnership (BCRP) and participate in the intelligence sharing arrangements of the BCRP. It is recommended that these considerations are retained for the time being and included in the wider review of gambling policy scheduled for later in the year; this will allow time for the necessary research and analysis to be undertaken. The consultation response is appended to the report (Appendix C)

6. Risk management

6.1 It is a legal requirement to review the policy.

7. Equalities impact assessment

7.1 An equalities impact assessment was carried out for the current statement of principles and a further assessment will be carried out as part of the wider review and development of a new statement of principles during 2016.

8. Community safety

8.1 One of the objectives in the Gambling Act is to prevent gambling from being a source of crime, being associated with crime or being used to support crime.

9. Organisational implications

None.

10. Timetable for implementation

10.1

Proposal to readopt the Lambeth Gambling Act 2005 Statement of Principles 2013-2016 reported to Licensing Committee, pending a full review of the borough's gambling policy and development of a new statement of	15 March 2016
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principles in light of recent Gambling Commission guidance to local licensing authorities	
Short public consultation to readopt the 2013-16 statement of principles	21 March – 17 April 2016
Draft 2016-19 statement of principles to Licensing Committee with results of consultation	26 April 2016
Recommendation to readopt the current statement of principles (with minor amendments) and final version of 2016-19 statement to Full Council for approval	18 May 2016
2016-2019 statement of principles takes effect	20 June 2016
Comprehensive review of the authority's gambling policy, taking account of changes introduced in the fifth edition of the Gambling Commission guidance to local licensing authorities (published September 2015). Development of a new local draft statement of principles.	Autumn/ Winter 2016
Consultation on revised Gambling Act 2005 statement of principles	January – March 2017
Final version of revised statement to Full Council for approval	May 2017

Audit trail

Consultation

This is important as it shows that consultation has been undertaken in the preparation of the report and provides a quick reference point for specific comments. It is important that officers remember to liaise with relevant councillors such as the Cabinet Member and the relevant Ward Members.

Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
Sue Foster	Strategic Director for Neighbourhoods & Growth	12.04.16	12.04.16	
Rachel Sharpe	Director, Housing & Communities	12.04.16	14.04.16	
Martin Crump	Corporate Resources: Financial Planning and Management	12.04.16	15.04.16	Para 3
Jean-Marc Moocarme, Legal Services	Enabling: Integrated Support	12.04.16	14.04.16	Para 4
Cllr Jane Edbrooke	Cabinet Member: Neighbourhoods	12.04.16	12.04.16	
Cllr Mohammed Seedat	On behalf of Cabinet Member: Healthier and Stronger Communities	14.04.16	15.04.16	
Cllr Jim Dickson	Cabinet Member: Healthier and Stronger Communities	15.04.16		

Report history

Original discussion with Cabinet Member	11.02.16
Report deadline	26.04.16
Date final report sent	18.04.16
Report no.	/15-16
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Background information	Gambling Act 2005 Gambling Commission Guidance to licensing authorities (5 th edition, September 2015) London Borough of Lambeth Gambling Act 2005 Statement of Principles 2013 – 2016
Appendices	Appendix A: Summary of proposed changes Appendix B: London Borough of Lambeth Draft Gambling Act 2005 Statement of Principles 2016 – 2019 Appendix C: Consultation response