

**Name of meeting: Licensing and Safety Committee**

**Date: 23<sup>rd</sup> November 2018**

**Title of report: Review of Licensing Policy Statement (Gambling)**

**Purpose of report**

The purpose of this report is to inform members of the results of the consultation on the Council’s draft Licensing Policy Statement (Gambling), and for Members to make recommendations to Council for its adoption.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)?</a></b>	<b>No</b>
<b>The Decision - Is it eligible for “call in” by Scrutiny?</b>	<b>No</b>
<b>Date signed off by Director &amp; name</b>	
<b>Is it also signed off by the Service - Director for Financial Management, IT, Risk and Performance?</b>	<b>Eamonn Croston 15.11.18</b>
<b>Is it also signed off by the Service Director - Legal Governance and Commissioning?</b>	<b>Julie Muscroft 15.11.18</b>
<b>Cabinet member portfolio</b>	<b>Cllr Naheed Mather</b>

**Electoral wards affected: All**

**Ward councillors consulted: All**

**Public or private: Public**

**1. Summary**

1.1 This report details the outcome of the consultation process in respect of the review of the Council’s Licensing Policy Statement (Gambling) and make recommendations to Council for its adoption.

**2. Information required to take a decision**

2.1 The Gambling Act 2005 licenses and regulates commercial gambling and under that Act local authorities are responsible for licensing premises where gambling takes place.

The Gambling Act sets out three licensing objectives:

- (i) Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime
- (ii) Ensure that gambling is conducted in a fair and open way
- (iii) Protecting children and other vulnerable persons from being harmed or exploited in gambling

The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a statement of their licensing policy (gambling). Applications for licences under the Gambling Act 2005 have to be made in accordance with the Licensing Authority's Licensing Policy (Gambling) and the Regulations made under the 2005 Act.

The Council's previous policy came into force on the 31<sup>st</sup> January 2016 following a statutory consultation and review, and adoption by Full Council on the 9<sup>th</sup> December 2015.

- 2.2 The Council has now to review the existing policy with a view to having a new policy in force by 31 January 2019. The policy, which has to be approved by the full Council (as the Licensing Authority), has to be the subject of public consultation, and any comments received have to be taken into account before formally adopting the policy.
- 2.3 At the 10 September 2019 meeting of the Licensing Safety Committee, Members authorised officers to consult on a draft revised policy. This consultation commenced on the 16<sup>th</sup> September 2018 and ended on the 26<sup>th</sup> October 2018.
- 2.4 Page 3 of the draft proposed policy sets out the full list of those consulted. Three responses were received, which are as follows:-
  - i) Gamcare  
Appendix I contains the response from GamCare
  - ii) Response from a member of the Kirklees Safeguarding Children's Board.  
  
Page 17, Sections 2 and 3, consider the addition of *"Occasional spot checks for children/young persons in adult-only areas"*.
  - iii) Public Health  
  
Expand on the links between the local area profile and local risk assessments.  
  
Definition of a vulnerable person should be clear from the outset of the policy. Other minor changes which are highlighted in the revised draft policy

2.5 The comments received a part of the consultation have been considered and officers respond to those comments as follows:

iv) GamCare

Licensing have worked with Public Health to develop a Local Area Profile, which is attached at Appendix II.

A local area profile is an assessment of the key characteristics of Kirklees in the context of gambling-related harm. The information presented helps to provide a better understanding of the types of people that may be more vulnerable to gambling-related harm and where they are located.

This addresses the first bullet point in the response from GamCare.

The issues raised in bullet point two will be addressed in the Local Area Profile.

The Local Area Profile, attached at appendix II, takes into account existing gambling establishments, education establishments, community centre, GP surgeries, places of worship and job centres. GamCare have suggested the accommodation / centres for vulnerable persons, including those with learning difficulties, and those with gambling / alcohol/ drug abuse problems as pertinent areas the profile should consider.

These are valid points raised by GamCare and licensing will work with colleagues in Public Health to include these key areas within the profile.

The remainder of the issues highlighted by GamCare will be taken into account when looking at applications for new gambling licences or indeed as part of the enforcement regime.

v) Response from a member of the Kirklees Safeguarding Children's Board.

This comment has been taken in to account in the revised draft policy, and have been included under page 15, section 2, of the revised policy and page 16, section 3.

vi) Response from Public Health

Comments from Public Health have been taken into account in the revised draft policy.

These comments were

- the definition of a vulnerable person should be made clearer under the Local Risk Assessment Section on page 10 of the policy. This has been taken into account and the definition made clearer,

- On page 10 of the policy, where it sets out what, at a minimum, an operator should take into account when undertaking their risk assessments, whether it should also link to the local area profile.

Officers have added a paragraph on page 11 of the policy that links back to the local area profile,

- On page 15 of the policy, under section 3 (licensed family entertainment centres, public health questioned how staff monitor the use of machines to ensure they are not being used by under 18's,

Officers have added an additional measure that may be considered by the licensing authority, relating to a documents procedure for how employees will monitor the licensed area.

- 2.6 As stated in 2.5 above, the Licensing Service have worked closely with Public health for the first time to develop a Local Area Profile and the service has been integral to providing the data and developing the mapping information which underpins the profile.

One of Kirklees' corporate outcomes is to have sustainable economic growth for communities and businesses and in reviewing the Council's statement of gambling policy it was important to consider the impact gambling licences have on the economy and vibrancy of the town centres. Therefore, the key objective with regards to producing a local area profile is to gain a better understanding of the gambling issues within our deprived areas of Kirklees and what measures operators can put in place, via the policy, to reduce the risk of problem gambling in these areas.

A copy of the profile can be found at appendix II.

### **3. Implications for the Council**

#### **3.1 Early Intervention and Prevention (EIP)**

N/A

#### **3.2 Economic Resilience (ER)**

N/A

#### **3.3 Improving Outcomes for Children**

The revised policy, including the introduction of a local area profile, will support this key outcome.

#### **3.4 Reducing demand of services**

N/A

#### **3.5 Other implications (e.g. Financial, Legal...)**

Approval of the draft revised Statement of Principles will support the Kirklees corporate outcome of ensuring we keep people safe and protected from harm and making sure vulnerable adults are supported and safe. This will be achieved by ensuring the Council continues to contribute to the prevention of gambling being a source of crime or disorder, to ensure that gambling is conducted in a fair and open way, and by protecting children and other vulnerable persons from being harmed or exploited in gambling.

The costs of the preparation and publication of the revised statement of principles can be contained within existing budgets.

### **Legal Implications**

Section 349(1) of the Gambling Act 2005 requires that a Licensing Authority shall prepare and publish a statement of the principles it proposes to apply in exercising its functions under the Act before each successive 3 year period.

The current statement of principles is for the period 2015-18. However, S349(2) provides that a Licensing Authority shall also review its statement from time to time and if necessary revise the statement and publish the revision before it takes effect.

Section 153 of the Act states that the Licensing Authority shall aim to permit the use of premises for gambling in so far as the Authority think fit and be in accordance with guidance issued by the Gambling Commission.

Finally, in preparing a revision, the Licensing Authority shall undertake consultation in accordance with S349(3).

### **Equality Implications**

The Equality Act 2010 creates the Public Sector Equality Duty (PSED).

Under section 149 of the Act :-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;

race;  
religion or belief;  
sex;  
sexual orientation.

In order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above.. In summary the assessment is that the level of impact is extremely low.

The aim of the Statement of Gambling Policy is to comply with the requirements of the Gambling Act 2005. It sets out how Kirklees as the Licensing Authority will approach licensing premises under the Gambling Act 2005. The updated policy identifies what the Licensing Authority expects from applicants and provides appendices of useful information including a new local area profile.

None of the groups set out under the Act are specifically affected. However the Gambling Act requires that a public consultation exercise is carried out which has taken place as detailed at paragraph 4. The consultation was primarily on line. The decision to award a licence will be guided by the main aims and principles of the legislation which ultimately seek to protect vulnerable persons.

#### **4. Consultees and their opinions**

Consultation has taken place on the revised Statement of Principles and a full list of those contacted is contained at page 3 of the policy. A six week consultation has been carried out between 17 September 2018 and 26 October 2018, the results of which are contained within the main body of this report.

#### **5. Next steps**

- 5.1 Members are asked to consider the responses to the consultation and the amendments made to the policy as a result of those responses.

#### **6. Officer recommendations and reasons**

The Committee is recommended to:

- i. Consider the responses to the consultation and revised policy, as a result of the consultation representations, and
- ii. Recommend Council to approve the revised policy as the new Licensing Policy Statement (Gambling) for the next three years.

#### **7. Cabinet portfolio holder recommendation**

Cllr Naheed Mather supports the draft revised policy attached.

#### **8. Contact officer**

Russell Williams

Group Leader – Licensing  
[russell.williams@kirklees.gov.uk](mailto:russell.williams@kirklees.gov.uk)  
01484 221 000

**9. Background Papers and History of Decisions**

N/A

**10. Service Director responsible**

Joanne Bartholomew  
Commercial, Regulatory and Operational Services  
[joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)  
01484 221 000