

Name of meeting: Council

Date: 12th December 2018

Title of report: Revised Gambling Policy – Statement of Principles

Purpose of report

This report details the outcome of the consultation process in respect of the review of Kirklees Council's Gambling Policy (Statement of Principles) and makes recommendations to Council for its adoption.

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?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name	Karl Battersby – Strategic Director (Economy and Infrastructure) – 04/12/2018
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Eamonn Croston – Service Director (Finance) – 30/11/2018
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Julie Muscroft – Service Director (legal, Governance and Commissioning – 03/12/2018
Cabinet member portfolio	Councillor Naheed Mather

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 Gambling Policy (Statement of Principles) and make recommendations to Council for its adoption.

2. Information required to take a decision

- 2.1 The Gambling Act 2005 licences 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

- 2.2 The Gambling Act 2005 currently requires Licensing Authorities to publish at least every three years a Gambling Policy – Statement of Principles. Applications for licences under the Gambling Act 2005 have to be made in accordance with this Statement of Principles, and the Regulations made under the 2005 Act.

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

- 2.4 The Council has now to review the existing policy with a view to having a new policy in place by 31st January 2019. The policy, which has to be approved by the full Council (as the Licensing Authority), has to be subject to public consultation, and any comments received taken into account before formally adopting the policy.

- 2.5 At the 10th September 2018 meeting of the Licensing Safety Committee, Members authorised officers to consult on a draft revised policy. This consultation commenced on the 16th September 2018 and ended on the 26th October 2018.

- 2.6 A list of those consulted is set out at page three of the revised policy, a copy of which is attached at appendix II. 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, who asked for the following to be considered.

Page 17, Sections 2 and 3, consider the addition of "*Occasional spot checks for children/young persons in adult-only areas*".

- iii) Public Health

Public Health asked the licensing service to expand on the links between the local area profile and local risk assessments.

Make the 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

2.7 The comments received from consultation have been considered and officers respond as follows:

i) GamCare

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

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

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

iii) 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.

This has been taken into account and the definition made clearer, under the heading 'Local Risk Assessment', which is on page 10 of the revised policy.

- 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 2.7 above, the Licensing Service worked closely with Public Health to develop a Local Area Profile. Public Health have been integral to providing the data and developing the mapping information which underpins the profile, and the licensing service is grateful for their assistance in this gambling policy review.
- 2.7 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.
- 2.9 Following consultation, a revised policy, which included the amendments mentioned above, was placed before Members of the 23rd November 2018 Licensing and Safety Committee. This is set out in Appendix II of the report, which also shows the amendments made to the policy following the consultation.
- 2.10 Having considered the responses to the consultation and the revised policy, Members of the 23rd November 2018 Licensing and Safety committee, took the decision to recommend, to Full Council, that the revised policy, which includes the amendments made as a result of consultation, be adopted as the Council's Gambling Policy (Statement of Principles).

3. **Implications for the Council**

3.1 **Working with People**

The introduction of a local area profile, in a gambling context, will enable the Council, in its capacity as Licensing Authority, to work with local communities to create positive change and reduce the risk of gambling related harm.

3.2 **Working with Partners**

The revised policy and the accompanying local area profile, would not have been achievable without the assistance and input from partners in Public Health.

The licensing service will continue to work with colleagues in Public Health to ensure the local area profile is kept up-to-date and expanded where new gambling related harm risk factors are identified.

3.3 Place Based Working

The revised policy and the accompanying local area profile will enable the Licensing Service to prioritise inspections of gambling premises to areas identified as at risk of gambling related harm.

3.4 Improving outcomes for children

The local area profile will assist the Council, in its capacity as Licensing Authority, in ensuring gambling operators within areas identified as being at risk of gambling related harm, are taking steps to address gambling related harm.

The local area profile will also enable the Council, in its capacity as Licensing Authority, to examine in closer detail applications for gambling premises within areas that are at risk of gambling related harm.

Working with gambling operators, in light of the Local Area Profile, will support this key outcome.

3.5 Other (eg Legal/Financial or Human Resources)

Approval of the 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

- 4.1 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 17th September 2018 and 26th October 2018, the results of which are contained within the main body of this report.

5. Next steps and timelines

- 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.

If approved the new Gambling Policy – Statement of Principles will be advertised and published as required by the regulations and will come into force from 31st January 2019

6. Officer recommendations and reasons

Council is recommended to:

- i) Consider the responses to the consultation and the revised policy set out in Appendix II, and
- ii) Approve the revised policy set out in Appendix II as the new Gambling Policy – Statement of Principles for the next three years from effect on 31st January 2019

7. Cabinet portfolio holder's recommendations

7.1 Cllr Naheed Mather supports the revised policy attached

8. Contact officer

Russell Williams
Group Leader – Licensing
russell.williams@kirklees.gov.uk
01484 221 000

9. Background Papers and History of Decisions

The following is a list of background papers to this report –

- a) Report and decision from meeting of 10 September 2018 Licensing and Safety Committee.
- b) Report and decision from meeting of 23 November 2018 Licensing and Safety Committee.

10. Service Director responsible

Joanne Bartholomew
Commercial, Regulatory and Operational Services
joanne.bartholomew@kirklees.gov.uk
01484 221 000