

27 January 2016

Ordinary Council

Gambling Act 2005 – Review of Statement of Gambling Policy

Report of: *Gordon Glenday – Head of Planning and Environmental Health*

Wards Affected: *All*

This report is : *Public*

1. Executive Summary

- 1.1 The Gambling Act 2005 requires that the Licensing Authority must produce a Statement of Gambling Policy in respect of each 3 year period.
- 1.2 This report is to request that Members approve the current Gambling Policy for re-publication with effect from 31 January 2016 for a maximum period of 3 years in line with a recommendation from planning and Licensing Committee.
- 1.3 In agreeing the policy however, members are requested to note that this will be reviewed again almost immediately and republished later this year following the necessary consultation and approval by Members. This is a necessary measure due to publication of new guidance and codes of practice, which must be taken account of in the Councils policy.

2. Recommendation

2.1 Members are requested to:

Approve the policy attached as Appendix A for adoption as the Councils Statement of Gambling Policy as required under section 349 of the Gambling Act 2005, for the period 31 January 2016 to 30 January 2019.

3. Introduction and Background

- 3.1 Commercial Gambling in England, Wales and Scotland is regulated under provision of the Gambling Act 2005 (the Act).

- 3.2 Section 2 (1) of the Act empowers Brentwood Borough Council as the licensing authority for this Borough.
- 3.3 Under section 349 of the Act, the licensing authority are required to prepare and publish a statement of principles (Gambling Policy) that they propose to apply in exercising their functions. This must be published every three years.
- 3.4 The Statement of Gambling Policy sets out how the Council, in its role as Licensing Authority, will carry out its functions under the Act. It recognises the importance of responsible gambling within the entertainment industry whilst seeking to balance this with the key objectives of the Act. The objectives are;
- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

The policy should be reviewed from time to time and at least every three years.

- 3.4 Section 349 of the Gambling Act 2005 prescribes that:-

- (1) A licensing authority shall before each successive period of three years—
- a) Prepare a statement of principles that they propose to apply in exercising their functions under this Act during that period; and
 - b) Publish the statement
- (2) A licensing authority shall—
- a) Review their statement under this section from time to time;
 - b) If they think it necessary in light of the review, revise the statement; and
 - c) Publish any revision before giving it effect.
- (3) In preparing a statement or revision under this section a licensing authority shall consult –
- a) either—
 - (i) in England and Wales, the chief officer of police for the authority's area; or
 - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area
 - b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and

- c) 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 under this Act.

3.5 The approval or adoption of the 'Licensing authority policy statement' under section 349 of the Gambling Act 2005 is by virtue of reg. 3 of the Local Authorities (Committee System) (England) Regulations 2012 SI 2012/1020 a function which can by law only be exercised by full Council.

4. Issues Options and Analysis of Options

4.1 The Council's gambling Policy must reflect both the guidance issued by the Gambling Commission and Government Codes of Practice. It essentially informs the process that the Council would normally follow in conducting its duties as licensing authority under the Act.

4.2 The Gambling Commission has recently published a revision to their Guidance to Licensing Authorities (GLA) with significant changes being made. It is essential that any new or revised policy adopted by this authority should reflect this guidance and the new codes of practice that it is based on.

4.3 The Council is required to publish a revised statement of Gambling Policy by 31 January this year, however, given the lengthy process of consultation and adoption of the policy it was not possible to wait for publication of the new guidance and codes of practice. Therefore, this is an interim re-publication of the existing policy, with work having already commenced on a further revision in order to ensure that the policy truly reflects the recent changes.

4.5 There is not an option to leave the current policy in place without re-consulting and re-publishing, given the requirement to review every three years and the requirement to consult on each review.

4.6 Re-publication of the existing policy was approved for consultation by Planning and Licensing Committee on 21 July 2015. In the event that no responses were received to the consultation Members of that Committee resolved to recommend re-adoption of the current policy as outlined in this report to Ordinary Council with a view publishing it as an interim step pending a full review to take account of new guidance and codes of practice.

4.7 A further revision of the policy will be presented to Planning and Licensing Committee and subsequently to ordinary Council following consultation later this year.

5. Reason for Recommendations

- 5.1 The Council does not have the option of leaving the process entirely until the full review of the policy has been completed, as from 1 February 2015 any decision made relating to any aspect of the Gambling Act 2005 would be ultra vires given that the policy is a requirement of the Act.
- 5.3 The solution in Paragraph 4 enables the Council to fulfil its obligation to re-publish the statement of policy within the legislative timeframe. This will enable lawful decision making with regard to the Council's functions under the Act, whilst ensuring that the policy is brought up to date at the earliest opportunity.
- 5.4 There are no concerns over the conduct of commercial gambling establishments within the Borough at this time, nor have there been any significant problems since implementation of the Act. The current policy has served the Borough well over the last three years and a continuation of that policy in the short term is not anticipated to raise any issues.

6. References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough – “Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

Localism – Encourage local businesses to invest directly in Brentwood's communities”

7. Consultation

- 7.1 Consultation is required under provision of section 349 (3) of the Act as illustrated in paragraph 3.4 (above).
- 7.2 The full list of consultees relating to the requirements of section 349 of the Act is listed in **annex A of the existing policy in appendix A of this report**. It was also sent to Ward Councillors and published on the Council website.

8. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Director

Tel & Email 01277 312513/ Christopher.leslie@brentwood.gov.uk

The Council's reviewed and revised Gambling Policy must be agreed, published and in place by the 31 January 2016. Failure to comply or meet with this deadline would mean that the Council could not lawfully accept or process Gambling Act 2005 applications after that date. This has the potential to have a significant negative impact on the Council being able to recover its reasonable costs in relation to operating its licensing service for this function.

Legal Implications

Name & Title: Daniel Toohey, Head of Legal Services

Tel & Email 01277 312860 / Daniel.toohey@brentwood.gov.uk

The Council is required to review its Statement of Gambling Policy every three years in accordance with Section 349 of the Gambling Act 2005 and to widely consult on that review with responsible authorities and other interested parties. Best practice is that consultations should run for a period of 12 weeks. Whilst this is an interim measure pending a full review of the policy the full 12 week consultation was observed, which means that the Council has fully fulfilled the requirements of the Act.

The Council has to have its gambling Policy agreed, published and in place by the 31 January 2016. Failure to meet this deadline would mean that the Council would be acting ultra vires in respect of gambling applications submitted after that date.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

There are no significant implications arising from agreement to the recommendations of this report.

9. Appendices to this report

Appendix A - Gambling Policy Statement

Report Author Contact Details:

Name: Gary O'Shea – Principal Licensing Officer

Telephone: 01277 312503 – Email gary.oshea@brentwood.gov.uk