

LICENSING AND REGISTRATION COMMITTEE

24 JULY 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A5. GAMBLING ACT 2005 POLICY

(report prepared by Michael Cook & Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek the Committee’s approval for a revised draft Statement of Gambling Policy to be circulated to key stakeholders for consultation purposes, for the outcome of the consultation to be reported back to this Committee for consideration together with a proposed policy for 2025-2028.

EXECUTIVE SUMMARY

The Council is required to review and renew its Statement of Gambling Policy every three years in accordance with the Gambling Act 2005. The review and renewal of the policy is subject to public consultation and must be adopted by Full Council on recommendation from the Licensing and Registration Committee and Cabinet.

The Review was last undertaken 3 years ago and no significant issues have arose through use of the Policy since this time. The proposed changes are considered minor however, internal consultation will be undertaken with the Council’s Corporate Enforcement Group through this process.

The Government introduced a gambling white paper in April 2023. Once the review is concluded it is likely that there will be changes to the Gambling Commissions guidance issued to Local Authorities, which is likely to have an impact on the Councils Gambling Policy.

The conclusion of the review may full during the consultation or determination of the Councils Policy review which may present an unintended clash.

The Council is unable to extend the existing Gambling Act policy until the national review has concluded and must review its existing policy within the Statutory period.

It is therefore proposed to undertake a light touch review in 2024 to ensure that the Authority meets its obligations to publish to its revised policy by 31 January 2025.

RECOMMENDATION(S)

a) That subject to any matters the Committee may wish to raise, the draft Gambling Policy as set out in Appendix A to this report be approved for the purposes of the consultation in b) below.

b) That the draft Gambling Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the committee.

REASON(S) FOR THE RECOMMENDATION(S)

The Council's reviewed and revised Gambling Policy must be adopted, published and in place by the 31 January 2025. 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 which would 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.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft schedule set out at Appendix A is intended to support the following themes from the Council's Corporate Plan 2024-28:

- Pride in our area and services to residents
- Working with Partners to improve quality of life
- Promoting our Heritage offer, attracting visitors and encouraging them to stay longer
- Financial sustainability and openness

The Betting and Gaming industry in our District provides significant direct and indirect employment, skills and training for local people and particularly in our family friendly and family orientated seaside resort areas of Clacton, Dovercourt and Walton on the Naze, it also provides welcome leisure attractions for visitors to our District.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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. The Council has to have its Gambling Policy agreed, published and in place by January 2025. Failure to meet this deadline would mean that the Council would be ultra vires in respect of gambling applications submitted after that date.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of administration in terms of production, consultation and publication of the Council's Statement of Gambling Policy is met within current service budget and gambling licence and permit fee income.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency good decision making.

C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.
--	--

MILESTONES AND DELIVERY

The adoption of the Statement of Gambling Act 2005 Policy this financial year is itself a key milestone in ensuring Licensing Policies remain up to date.

ASSOCIATED RISKS AND MITIGATION

The Council's reviewed and revised Gambling Policy must be adopted, published and in place by the 31 January 2025. 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 which would 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.

Such a scenario could see the Council open to complaint and judicial challenge through the Courts, particularly from applicants who may suffer loss of income and reputation as a result of the Council being unable to process applications submitted under the Gambling Act 2005.

CONSULTATION AND ENGAGEMENT

It is recommended that public consultation be over a minimum of a four-week period. The consultation itself will encompass and engage a diverse range of consultees such as faith groups, local schools, Children's Safeguarding Service, voluntary groups, premises licence holders, business representatives, betting and gaming representatives and organisations that work with problem gamblers like Gamblers Anonymous to seek a wide variety of comment and views on the draft policy. The policy will also be available to view, download and comment on through the Council's web site.

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations arising in respect of this policy.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

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 the 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 the light of a 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.

The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible for the issuing of various permissions, permits and notices relating to the use of premises for gambling activities:-

- a) Consideration of applications for premises licences for:
 - Casinos
 - Bingo premises
 - Betting premises and Race tracks
 - Adult gaming centres
 - Family entertainment centres
- b) Consideration of applications for permits for:
 - Gaming machines in alcohol-licensed premises, such as pubs
 - Gaming machines for members clubs
 - Gaming in members clubs
 - Unlicensed family entertainments centres (category D machines only – i.e. those that have the lowest level of stakes and prizes)
 - Prize gaming
- c) Temporary use notices
- d) Occasional use notices
- e) Provisional Statements
- f) Registration of small society lotteries

Each Authority is legally required to formulate its own Gambling Licensing Policy Statement which must be reviewed and re-published every three years.

The policy must be based on the three licensing objectives, which 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;**
- **Protecting children and other vulnerable people from being harmed or exploited by gaming.**

This proposed draft and review of the policy will be the sixth that has taken place since the first policy was adopted in 2006.

The framework of this policy was originally initiated and designed by the Essex Licensing Officers Forum so that applicants and existing businesses in the betting and gaming industry that have outlets across Essex would have a template to recognise and work with across a wide range of different Local Authorities in Essex. It also ensured a framework of generic best practice amongst all Essex Authorities and ensured that any necessary regulatory requirements did not unnecessarily burden businesses who have applications to make for licensed outlets across Essex such as chain of betting shops for example.

This has also enabled the development of a robust and practical policy through partnership for how the Gambling Act 2005 will be administered and compliance is managed for applicants and licence and permit holders alike.

The policy framework has then been augmented by local requirements and local strategy since 2006 to reflect the Authority's own area as influenced by public consultation and Tendring District Council's Licensing Committee Members.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Draft Gambling Policy

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Michael Cook Keith Simmons
Job Title	Licensing Manager Head of Democratic Services and Elections
Email/Telephone	licensingsection@tendringdc.gov.uk 01255 686565