

North Tyneside Council

Report to Cabinet

Date: 14 October 2024

Title: The Gambling Act 2005 – Statement of Licensing Policy (Gambling) 2025 - 2028

Portfolio(s): Public Health and Wellbeing	Cabinet Member(s): Cllr K Clark
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Report from Service

Area: Regeneration and Economic Development

Responsible Officer: John Sparkes (Tel: (0191)643 6091)
Director of Regeneration and Economic Development

Wards affected: All

PART 1

1.1 Executive Summary:

Local authorities are required by the Gambling Act 2005 (“the Act”) to publish a Statement of Licensing Policy and to revise the Policy at least every three years. The Statement of Licensing Policy provides guidance as to how the Authority will exercise its functions under the Act. The Policy forms part of the Authority’s Budget and Policy Framework.

Cabinet considered the initial proposals for the draft Policy at its meeting on 24 June 2024. This report outlines the final proposals to Cabinet following a period of consultation. There have only been minor changes made to the Policy due to the ongoing wider joint review of the Gambling Act 2005 by the Government and the Gambling Commission with the review findings expected in 2025. This is in accordance with advice given to licensing authorities by the Gambling Commission in relation to revised Statements of Licensing Policy falling to be considered by licensing authorities this year.

1.2 Recommendation(s):

It is recommended that Cabinet: -

1. endorse the final proposals in connection with the formulation and approval of the draft revised Statement of Licensing Policy (Gambling) at Appendix 1 to this report, including the 'no casino resolution' included in the Policy; and
2. Agree to refer the draft revised Statement of Licensing Policy (Gambling) to full Council on 21 November 2024 for its consideration and determination on the approval of the Statement of Licensing Policy (Gambling).

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 9 August 2024.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2021/25 Our North Tyneside Plan:

A caring North Tyneside:

- We will work to reduce inequality, eliminate discrimination, and ensure the social rights of the people of North Tyneside are key to council decision making.

A secure North Tyneside:

- We will tackle health and socio-economic inequalities across the borough including through our Poverty Intervention Fund to tackle food poverty.

A thriving North Tyneside

- We will bring more good quality jobs to North Tyneside – by helping local businesses to sustain and grow, making it attractive for new businesses to set up or relocate in the borough.

1.5 Information:

1.5.1 Background

The Gambling Act 2005 (“the Act”) gives responsibility for the granting of premises licences and permits to local authorities who act as licensing authorities when discharging functions under the Act.

The Act established a regulatory body for gambling in Great Britain, namely, the Gambling Commission (the “Commission”). The Commission shares the responsibility for licensing and regulation under the Act with the licensing authorities. The Commission is responsible for issuing statutory guidance to licensing authorities as to how they should exercise their functions under the Act (including the compilation of a Statement of Licensing Policy) and has also issued Codes of Practice to the gambling trade.

The administration of the Act by both the Commission and licensing authorities must be undertaken in a manner that will promote the three licensing objectives laid down by the Act, 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; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.5.2 Statement of Licensing Policy (Gambling) and local context

The Authority is required to produce and publish a Statement of Licensing Policy under the Act, and the initial Policy came into force on 31 January 2007 and has been reviewed and, where necessary, amended every 3 years thereafter.

The revised Statement of Licensing Policy (Gambling) must be in force by 31 January 2025 when the existing Policy will expire. The 3 year period for each Policy runs from 31 January as determined by the Gambling Act 2005 (Licensing Authority Policy Statement) (First Appointed Day) Order 2006.

Section 153 of the Act sets out the principles to be applied by the Authority as Licensing Authority when considering an application for a Premises Licence. It states:

(1) In exercising their functions under this Part [of the Act] a licensing authority shall aim to permit the use of the premises for gambling in so far as the authority think it –

(a) in accordance with any relevant code of practice [issued by the Gambling Commission]

(b) in accordance with any relevant guidance issued by the Commission under Section 25 [of the Act]

(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and

(d) in accordance with the Statement [of Licensing Policy] published by the authority under section 349 (subject to paragraphs (a) to (c))

Section 153(1)(d) of the Act therefore emphasises the importance of the Authority's Statement of Licensing Policy (Gambling) in determining any application for a Premises Licence made to the Authority as Licensing Authority.

Under the Act, the Authority as a Licensing Authority is responsible for issuing Premises Licences and Permits. Premises Licences are specific to the type of premises offering gambling to the public and include:

- casino premises
- bingo premises
- adult gaming centre premises
- family entertainment centre premises, and
- betting premises.

The Authority as a Licensing Authority can issue the following types of permit:

- Unlicensed Family Entertainment Centre Gaming Machine Permit
- Club Gaming Permit
- Club Machine Permit
- Alcohol Licensed Premises Gaming Machine Permits
- Prize Gaming Permits.

The Authority does not have the authority from the Secretary of State to issue Casino Premises Licences. Section 175 of the Act limits the overall numbers of types of casinos that will be permitted in Great Britain and, until such time as

the current limit on the number of casinos is increased, no further Casino Premises Licences will be issued.

1.5.3 Review of Statement of Licensing Policy (Gambling)

The draft revised Statement of Licensing Policy (Gambling) attached to this Report at Appendix 1 contains the information that The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 have prescribed should be included in the policy document. Such information includes:

an introductory section that should include: -

- a. description of the geographical area in respect of which the authority exercises its functions under the Act, and
- b. a list of persons that the authority has consulted in preparing the statement.

The Regulations also specify that the following matters shall be set out in separate sections of the Statement of Licensing Policy: -

- a. the principles to be applied by the authority in designating in writing the body which is competent to advise the authority about the protection of children from harm
- b. the principles applied by the authority in determining whether a person is an interested party in relation to a premises licence application
- c. the principles to be applied by the authority in the exchange of information between it and the Gambling Commission and other bodies listed in the Act
- d. the principles to be applied by the authority in relation to the inspection of premises and investigating criminal proceedings under the Act.

In preparing this draft revised Policy document, regard has been had to the Commission's statutory guidance and the Regulations issued in order to assist Licensing Authorities in the preparation of their policy statements.

The draft revised Policy statement includes reference to the Council Plan and includes additional information in relation to those individuals or businesses seeking to apply for a permit. It also emphasises the requirement for the Authority to have regard to the public sector equality duty when making decisions in relation to individual applications.

Only minor changes have been made to the Policy at this time. The Commission have advised that as there are ongoing consultations regarding the Gambling Act 2005 and that the Commission has been unable to amend its Guidance to Licensing Authorities in sufficient time for Authorities to incorporate these changes withing their Policy, any changes to Licensing Authorities' Policies are likely to be minimal at this stage. The Gambling Commission has advised that local policies should be refreshed in line with the statutory requirement of the Act so that the revised Policy is in place for January 2025. It is anticipated that a further review of the Policy will be undertaken in 2025 when the revised Guidance is released following the conclusion of the review of the Act.

1.5.4 Public Consultation

The draft revised Policy was subject to a 6 week period of public consultation that began on 8 July 2024. The 6 week period of consultation is considered an appropriate period of time to consult on this Policy document. A list of the consultees will appear in the Policy document.

In total 16 responses were received to this consultation exercise from a mix of residents, local businesses and agencies. Officers have considered each response. Summaries of the responses received where views were shared are attached at Appendix 2 to this report. The majority of responses focussed on the harms attributed to gambling.

The draft revised Policy statement once approved must be published at least 4 weeks before it comes into effect (31 January 2025) and be available for inspection on the Authority's website, public libraries and Quadrant. Before the Policy comes into effect the Authority must also advertise the publication of the Policy statement by publishing a public notice on the Authority's website and in a local newspaper indicating when the Policy will be published and when it comes into effect.

1.5.5 No Casino Resolution

Full Council on 22 November 2021 passed a 'no casino' resolution which meant that the Authority could not grant any Casino Premises Licences in the Borough even if it was given the power to do so. This resolution remains in place for the duration of the Policy, even if the number of national Casino licences increases.

The decision whether or not to pass a further 'no Casino' resolution formed part of the consultation process concerning the revision of the Policy. If full Council passes a 'no Casino' resolution, then it will remain in force for a further three years (unless another resolution is passed in the interim) and will prohibit the Authority from issuing Casino Premises Licences in that period. No consultation response was against the passing of a further 'no Casino' Resolution.

1.6 **Decision options:**

The following decision options are available for consideration by Cabinet:

Option 1

Endorse the final proposals for the draft revised Policy statement attached as Appendix 1 to this report.

Option 2

Not endorse the final proposals for the draft revised Policy statement attached as Appendix 1 to this report.

Option 1 is the recommended option.

1.7 **Reasons for recommended option:**

Option 1 is recommended for the following reasons:

The revised draft Policy has been developed by an Officer Working Group. The Policy contains the information required by legislation and the Gambling Commission. It has been subject to extensive engagement involving, in addition to members of the public, those involved in the gambling trade, the MP for Newcastle upon Tyne East and Wallsend and the MP for Tynemouth and Councillors. All consultees were given the opportunity of providing feedback and comments on the draft Policy during the consultation period.

1.8 Appendices:

Appendix 1: Draft Revised Statement of Licensing Policy (Gambling)
Appendix 2: Summary table of consultation responses

1.9 Contact officers:

Joanne Lee, Head of Public Protection, Community Safety and Emergency Planning (0191) 643 6901

Stephanie Graham, Principal Licensing Officer, (0191) 643 6969

John Barton, Manager Regulatory, Legal Services (0191) 643 5354

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [Gambling Act 2005](#)
- (2) [Gambling Commission Guidance issued under section 25 of the Gambling Act 2005](#)
- (3) [The Gambling Act 2005 \(Licensing Authority Policy Statement\) \(England and Wales\) Regulations 2006](#)
- (4) [Local Authority \(functions and Responsibilities\)\(England\) Regulations 2000](#)
- (5) [Gambling Review – “High stakes: gambling reform for the digital age” published April 2023.](#)
- (6) Equality Impact Assessment

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications arising from the report. The costs of preparing the revised Statement of Licensing Policy (Gambling) and the associated consultation arrangements can be met from the existing revenue budget.

2.2 Legal

The Authority is required to produce and publish a Statement of Licensing Policy under section 349 of the Gambling Act 2005. This Statement of Policy must be reviewed, and if necessary revised, every three years. This new draft Policy must be brought into effect by 31 January 2025. The revised Policy must however be formally approved by full Council before December 2024 to enable the revised Policy to be publicly advertised at least 4 weeks prior to the date it comes into effect.

The approval of the Statement of Licensing Policy (Gambling) is the shared responsibility of full Council and the Executive. The Policy will form part of the Authority's Policy Framework and these final proposals in this report and the Policy are submitted to Cabinet in pursuance of the established process under Part 4.7 of the Constitution to be followed in relation to the formulation and approval of plans and strategies comprising the Authority's Policy Framework.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The content of this draft Statement of Licensing Policy (Gambling) is driven by statutory requirements. Consultation with Members provides a key element to the formulation of the Policy. Members will be advised in that the Policy is being consulted upon. The Timetable for the approval of the Policy, having regard to the Constitution, is as follows: -

Cabinet – 14 October 2024 – Presentation of final proposals

Council – 21 November 2024 – Presentation of final proposals

Officers are available to discuss the draft Policy Statement in detail at the request of any Member.

2.3.2 External Consultation/Engagement

As previously stated, the draft Policy has been widely consulted upon. A wide range of consultees were invited to comment on the draft revised Policy, including members of the public, the gambling trade and local MPs. The 6 week consultation period commenced on 8 July 2024. The draft Policy Statement was made available on the North Tyneside Council website.

2.4 Human rights

There are aspects of the administration of the Gambling Act 2005 that may impact on the human rights of individuals residing in the Borough and licence holders. Article 8 of the European Convention of Human Rights entitles a person to the right to enjoy a private and family life. However, unlike the Licensing Act 2003, there is no licensing objective relating to gambling dealing with the prevention of public nuisance. If there is an issue with nuisance being generated by a gambling establishment, it may be something that a Licensing Committee/Sub-Committee may be able to consider in determining an application. However, it may be more appropriate for such issues to be dealt with by environmental protection legislation.

Article 6 of the European Convention also entitles an individual to a fair hearing. Any individual appearing before a licensing sub-committee under the Gambling Act will be given an opportunity to express their views as provided by the Act.

Article 1 of the First Protocol entitles a person to the peaceful enjoyment of his possessions. A possession may include a licence or the goodwill that such a Licence would generate. However, balanced against that is the ability of the Licensing Authority to enforce such laws under the Act as is necessary to control the use of such property, including a licence.

2.5 Equalities and diversity

The Authority will ensure that all persons, groups and organisations wishing to take part in the consultation process have an equal opportunity to participate. Any decision taken under the Act should not in any way discriminate against any person, group or society. An Equality Impact Assessment is in place for the review of the Gambling Policy. Actions as a result of the Equality Impact Assessment were to ensure that all staff are aware of access to an interpretation service and the availability to request documents in different formats and languages.

Individual decisions taken under the Policy will also be taken with due regard to the Public Sector Equality Duty

2.6 Risk management

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Public Health risk arrangements.

2.7 Crime and disorder

One of the three licensing objectives contained within the Gambling Act 2005 is the prevention of gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime. Any decision that the Authority takes as a Licensing Authority will have to have regard to this licensing objective. The police will also be notified of every application for a premises licence so that they have an opportunity of visiting premises and making a comment on the application.

2.8 Environment and sustainability

There are no direct implications for environment and sustainability arising from this report.

PART 3 – SIGN OFF

- Chief Executive
- Director(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Interim Director of
Corporate Strategy &
Customer Service