

North Tyneside Council

Report to Council

Date: 25 November 2021

Title: The Gambling Act 2005 – Draft Statement of Licensing Policy (Gambling) 2022 - 2025

Portfolio: Community Safety and Public Protection	Cabinet Member: Councillor Carole Burdis
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Report from Service Area: **Environment, Housing and Leisure**

Responsible Officers: **Phil Scott** **Tel: (0191) 643 7295**
Director of Environment, Housing and Leisure

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. It is a legal requirement that the Statement of Licensing Policy is consulted on in accordance with the Act before it is approved by the Authority.

This report presents the final proposals for the Policy to Council and seeks approval of the Policy. The Policy forms part of the Authority’s Budget and Policy Framework and in accordance with Part 4.7 of the Authority’s Constitution consideration of the final proposals for the Policy have been before Cabinet and Overview, Scrutiny and Policy Development Committee following the conclusion of the 6 week consultation process.

1.2 Recommendation:

It is recommended that Council:

- (1) Approve the Statement of Licensing Policy appearing at Appendix 1, including the proposed delegations in Part D of the Statement of Licensing Policy; and
- (2) Pass a resolution not to issue casino premises licences under section 166 of the Gambling Act 2005.

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 17 September 2021.

1.4 Council Plan and policy framework:

This report relates to the following priorities in the 2021 – 2025 Our North Tyneside Plan:

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.

A caring North Tyneside:

- People will be cared for, protected and supported if they become vulnerable, including if they become homeless.

A secure North Tyneside:

- Council wardens will work in partnership with Northumbria Police to prevent and tackle all forms of antisocial behaviour.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, specify that the Policy is the shared responsibility of Cabinet and full Council. Accordingly, the Policy forms part of the Authority's Budget and Policy Framework and this report is submitted to Council in pursuance of the established process set out in Part 4.7 of the Constitution in relation to the formulation and approval of plans and strategies comprised in the Budget and Policy Framework.

1.5 Information:

1.5.1 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.

1.5.2 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 on how to exercise their licensing functions under the Act (including the compilation of a Statement of Licensing Policy) and has issued Codes of Practice to the gambling trade.

1.5.3 The administration of the Act by both the Commission and Licensing Authorities has to 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.

- 1.5.4** The Authority is required to produce and publish a Statement of Licensing Policy under the Act. The initial Policy came into force on 31 January 2007 and has been reviewed and, where necessary, amended every three years thereafter.
- 1.5.5** The revised Statement of Licensing Policy (Gambling) must be in force by 31 January 2022 when the existing Policy will expire. The three 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.
- 1.5.6** 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
 - Betting Premises.
- 1.5.7** 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.
- 1.5.8** In terms of Permits, the Authority as a Licensing Authority can issue the following types of permit:
- Family Entertainment Centre Gaming Machine Permit
 - Club Gaming Permit
 - Club Machine Permit
 - Alcohol Licensed Premises Gaming Machine Permits
 - Prize Gaming Permits.
- 1.5.9** Section 153 of the Act sets out the principles to be applied by the Authority as a Licensing Authority when exercising its functions under Part 8 of the Act which relates to Premises Licences. It states that:
- (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 Policy] published by the authority under section 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.

1.5.10 The draft 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:

(a) 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
- a list of persons that the Authority has consulted in preparing the Statement of Licensing Policy.

(b) the following matters in separate sections of the policy statement:-

- 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
- the principles applied by the Authority in determining whether a person is an interested party in relation to a premises licence application
- 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
- the principles to be applied by the Authority in relation to the inspection of premises and investigating criminal proceedings under the Act.

1.5.11 In preparing this draft Statement of Licensing Policy, 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 Statement of Licensing Policy includes reference to the new Council Plan and includes additional information in relation to those individuals or businesses seeking to apply for a permit. It also emphasises the requirement to have regard to the public sector equality duty when formulating a Policy or making decisions in relation to individual applications.

1.5.12 Consultation

The draft Policy was subject to a six week period of public consultation that began on 5 July 2021. The six week period of consultation is considered an appropriate period of time to consult on this Policy document.

In total 55 responses were received to this consultation exercise from a mix of residents and agencies. Officers have considered each response. Summaries of the responses received are attached at **Appendix 2** to this report. The majority of responses focussed on support for a further "no casino" resolution. One response requested a definition of children be added to the Statement of Licensing Policy. The Statement of Licensing Policy has been amended in response to this.

The draft Statement of Licensing Policy once approved must be published at least 4 weeks before it comes into effect (31 January 2022) and be available for inspection on

the Authority's website, public libraries and the Quadrant. Before the Statement of Licensing Policy comes into effect the Authority must also advertise the publication of the Policy 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.

1.5.13 'No Casino' Resolution

Council on 22 November 2018 passed a resolution not to issue casino premises licences, 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 (see section 1.5.7 of this report).

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 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 reversing the 'no casino' resolution) and will prohibit the Authority from issuing Casino Premises Licences in that period. Of the 55 consultation responses received 45 consultees said that they were in favour of the Authority passing a 'no Casino' resolution.

1.6 **Decision Options:**

The following decision options are available for consideration by Council:

Option 1

Approve the draft Statement of Licensing Policy (Gambling) attached at **Appendix 1** to this report and to pass a resolution not to issue Casino Premises Licences in the Borough.

Option 2

Not to approve the draft Statement of Licensing Policy (Gambling) attached at **Appendix 1** to this report and not to pass a resolution not to issue Casino Premises Licences.

Option 1 is the recommended option.

1.7 **Reasons for Recommended option:**

Option 1 is recommended for the following reasons:

The draft Statement of Licensing Policy has been developed by an Officer Working Group with oversight from the Cabinet Member for Community Safety and Public Protection. The Statement of Licensing Policy contains the information required by legislation and the Gambling Commission's statutory guidance. It has been subject to extensive consultation involving, in addition to members of the public, those involved in the gambling trade, North Tyneside MPs, and all councillors. Consultees were given the opportunity of providing feedback and comments on the draft Statement of Licensing Policy during the consultation period.

1.8 Appendices:

Appendix 1 – Draft Statement of Licensing Policy (Gambling)

Appendix 2 – Summary table of consultation responses and amendments to Policy

1.9 Contact Officers:

Phil Scott, Director of Environment, Housing and Leisure, Tel: (0191) 643 7295

Joanne Lee, Public Protection Manager, Tel: (0191) 643 6901

Stephanie Graham, Senior Licensing Officer, Tel: (0191) 643 6969

Colin MacDonald, Senior Manager, Technical & Regulatory Services,
Tel: (0191) 643 6620

John Barton, Lawyer, Tel: (0191) 643 5354

David Dunford, Senior Business Partner, Finance, Tel: (0191) 643 7027

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.

- [Gambling Act 2005](#)
- [Gambling Commission's Guidance issued under section 25 of the Gambling Act 2005](#)
- [The Gambling Act 2005 \(Licensing Authority Policy Statement\) \(England and Wales\) Regulations 2006](#)
- [The Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000 \(as amended\)](#)
- [EIA.docx](#)

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 must be reviewed, and if necessary revised, every three years. This draft Statement of Licensing Policy must be brought into effect by 31 January 2022. The revised Policy must however be formally

approved by full Council no later than December 2021 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 the Cabinet and full Council as stated in paragraph 1.4 above.

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 were advised that the Policy has been consulted upon. The timetable for the approval of the Policy, having regard to the Constitution, is as follows:-

Cabinet – 28 June 2021 – Presentation of initial proposals

Overview, Scrutiny and Policy Development Committee – 19 July 2021– Presentation of initial proposals

Overview, Scrutiny and Policy Development Committee – 4 October 2021– Presentation of final proposals

Cabinet – 18 October 2021 – Presentation of final proposals

Council – 25 November 2021 – Presentation of final proposals and to seek formal adoption of the Statement of Licensing Policy (Gambling).

2.3.2 External Consultation

As highlighted in this report, the draft Policy has been widely consulted upon. Members of the public, the gambling trade, all councillors and North Tyneside MPs all have had an opportunity of commenting on the draft revised Policy statement. The 6 week consultation period commenced on 5 July 2021 and notice of this consultation was given through a press release and copies of the draft Policy 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 Policy has been drafted having regard to the Authority’s public sector equality duty. An Equality Impact Assessment was produced to inform the consultation process and it has been updated to assess the potential impact of the policy. Individual decisions taken under the Policy will also have to be taken having 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 Technical Services Partnership risk arrangements overseen by the established governance framework.

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 environment and sustainability issues directly arising from this report.

PART 3 – SIGN OFF

- Chief Executive

- Director of Service

- Mayor/Cabinet Member

- Chief Finance Officer

- Monitoring Officer

- Assistant Chief Executive