



## ALCOHOL AND GAMBLING LICENSING COMMITTEE

<b>Report Title</b>	<b>Gambling Act 2005 – Statement of Policy 3 Yearly Review</b>
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### REPORT

**AGENDA STATUS: PUBLIC**

<b>Committee Meeting Date:</b>	5 February 2019
<b>Policy Document:</b>	Gambling Act 2005
<b>Directorate:</b>	Customers & Communities

### 1. Purpose

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1.1 That the Committee note the comments received from the consultation on the reviewed Gambling Act 2005 Statement of Licensing Policy and that they recommend to Full Council that the updated policy is adopted.

### 2. Recommendations

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- 2.1 That the Committee note the comments received from the consultation on the reviewed Gambling Act 2005 Statement of Licensing Policy 2019 – 2022 as shown in Appendix 1.
- 2.2 That the Committee recommend the adoption of the updated policy to Full Council.
- 2.3 That the existing policy of not adopting a 'No Casino' resolution under section 166 of the Gambling Act 2005 is retained in the updated policy.
- 2.4 That the updated policy contains outline guidance for operators on the considerations that should be included within their local risk assessments.

### 3. Issues and Choices

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#### 3.1 Report Background

- 3.1.1 Every 3 years, the Gambling Act 2005 (the 2005 Act) requires Licensing Authorities to review and publish a statement of principles that they intend to apply when exercising their related functions.
- 3.1.2 The 2005 Act has three gambling licensing objectives. They are:
- preventing gambling from being a source of crime or 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.
- 3.1.3 Further detail of the objectives of the 2005 Act and how its delivery is proposed locally can be found in Appendix 1. The Council adopted the existing Policy on 7 March 2016.
- 3.1.4 The amended document was drafted by the Northamptonshire Licensing Liaison Group and essentially reflects the Gambling Commission's Guidance to Licensing Authorities and the Local Government Association's guidance on what should be included in such a document.
- 3.1.5 The new policy differs from the existing one in that it incorporates outline guidance for operators about what factors should be considered in the local risk assessment that they are required to submit in support of applications.
- 3.1.6 It is proposed that the outline guidance on factors to be considered in local risk assessment are:
- The location of services for children such as schools, playgrounds, leisure/ community centres and other areas where children will gather.
  - The demographics of the area in relation to vulnerable groups
  - Whether the premises is in an area subject to high levels of crime and / or disorder.
  - Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.
- 3.1.7 The Alcohol and Gambling Licensing Committee on 4 December 2018 agreed that the draft revised policy should be put out to consultation to statutory consultees and other interested parties.
- 3.1.8 The six week consultation period commenced on 10 December 2018 and ends on 1 February 2019. Emails with a link to the draft policy were sent to the statutory consultees and interested parties.
- 3.1.9 A webpage was set up on the current consultations section of the Northampton Borough Council website which provided access to the draft policy and details of how to make comments to the Licensing team.

- 3.1.10 A press release and associated social media coverage was provided to raise awareness of the consultation.
- 3.1.11 At the time of writing the report a total of two responses have been received to the consultation.
- 3.1.12 Northamptonshire Fire and Rescue Service have corrected an error in their contact details.
- 3.1.13 Gamble Aware have responded indicating that they do not have the resources available to comment on individual policies but make recommendations that guidance from the Gambling Commission is followed in the drafting of the policy. The Gambling Commission guidance has been followed.
- 3.1.14 Copies of the consultation responses are provided in Appendix 2.
- 3.1.15 Any additional responses which are received prior to the closing date will be circulated to members and published prior to the meeting and a verbal update will be provided at the meeting on any further responses received.
- 3.1.16 The 2005 Act allows Licensing Authorities to determine a resolution regarding the issue of casino premises licences. The resolution will form part of the Council's Gambling Act 2005 Statement of Licensing Policy.
- 3.1.17 Section 7(1) of the 2005 Act states that 'a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games'. Casino games are defined by the 2005 Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.
- 3.1.18 In relation to new casino premises licences, Local Licensing Authorities have the options:
- Not adopting a 'No Casino' resolution
- Adopting a 'No Casino' resolution: passed under Section 166(1) of the 2005 Act. This resolution may only be taken by the authority as a whole and (in England and Wales) cannot be delegated to the licensing committee.
- 3.1.19 The Council has not passed a "no Casino resolution under section 166 of the Gambling Act 2005 and, at present, this Council is not entitled to grant new casino premises licences. A change in the law would be required to allow this Council to do so. At present there are a total of four premises licences issued for existing casinos in Northampton, each of which was issued under previous legislation and is automatically converted to have effect under the 2005 Act. If a 'No Casino' resolution is passed this would not affect existing casino premises licences but would apply only to any new application. If a 'No casino resolution is passed it has effect for a period of 3 years following which it will lapse. If a 'No Casino' resolution is passed it may be revoked at any time by a further resolution. If the Council does not make such a resolution at this stage

it does not prevent it from doing so in the future if it considers it appropriate to do so.

3.1.20 It is therefore recommended that the current position is maintained in the updated policy.

## **3.2 Choices (Options)**

**3.2.1** As a Licensing Authority, the Council is legally required to review and publish a statement of principles when exercising its functions under the Gambling Act 2005. If the Council fails to complete the review and publish an updated policy it will be in breach of its legal obligations. A minor amendment to the contact details of one of the interested parties has been made following receipt of their consultation response.

**3.2.2** The Council has the choice to adopt or not adopt a “No Casino” resolution.

**3.2.3** The Council could choose to adopt such a resolution. This would only apply to any applications for new casinos. The four existing casino premises which are now in use for operation in the town would not be affected by such a decision.

**3.2.4** The legal process outlined in the Gambling Act 2005 requires that the statement of licensing policy in relation to gambling is formally adopted by the Full Council and committee are therefore recommended to endorse the report to Council on 25 February recommending approval of the updated policy.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

4.1.1 The report is part of the process of the review and updating of the Council's Statement of Licensing Policy under the Gambling Act 2005

### **4.2 Resources and Risk**

4.2.1 Financial: The issuing of relevant licenses will continue to generate income revenue, subject to certain limitations in relation to the level at which such fees can be set.

### **4.3 Legal**

4.3.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

4.3.2 Regulations made under the 2005 Act require a statement of gambling licensing policy to include certain information prescribed in regulations. The draft revisions to the policy include that information.

4.3.3 Section 154 of the 2005 Act states that the Council as licensing authority may not delegate decision making in relation to:

- 4.3.3.1 whether to pass a 'no casino' resolution; or,
- 4.3.3.2 adoption of its statement of gambling licensing policy;  
and, accordingly, both decisions must ultimately be made by Full Council.
- 4.3.3 As the statutory committee responsible for the discharge of the Council's gambling licensing functions, this committee is able to formulate and consult on the proposed changes to the policy prior to any decision by Council as to whether to amend the statement of gambling licensing policy.
- 4.4.4 At present the Council is not currently able to grant any new casino premises licences however, a number automatically continue to have effect, having been granted under previous legislation. It would be necessary for a new statutory instrument to be made to allow the Council to grant new casino premises licences. Even though the Council may not grant such licences at the moment it would be necessary to have clear and strong reasons to pass a resolution not to grant a casino premises licence at this time; the position could be reviewed at any time in the future.

#### **4.4 Equality**

- 4.4.1 No Implications

#### **4.5 Consultees (Internal and External)**

- 4.5.1 Appendix 3 outlines the organisations which were consulted on the draft policy appendix 4 outlines the consultation responses received.

### **5. Background Papers**

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- 5.1 Gambling Act 2005
  - 5.1.1 Gambling Commissions Guidance for Local Authorities  
<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>
  - 5.1.2 Gambling Commission Local Authority Bulletin  
<http://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-January-2018.pdf>

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