

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 10 March 2020	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		The Gambling Act 2005: Statement of Gambling Licensing Policy 2022-2025	
<b>Ward(s) or groups affected:</b>		All wards	
<b>From:</b>		Strategic Director of Environment and Leisure	

## RECOMMENDATIONS

1. That the licensing committee:
  - i. Considers and approves the Southwark Statement of Gambling Policy 2022-2025 provided at Appendix A to this report.
  - ii. Considers whether any amendments to Southwark's Statement of Gambling Policy 2022-2025 are required following the public consultation.
  - iii. Recommend that council assembly agree the publication of the Southwark Statement of Gambling Licensing Policy for 2022-2025 (Appendix A).

## BACKGROUND INFORMATION

2. The Gambling Act 2005 introduced a licensing regime for gaming and betting administered through a combination of the Gambling Commission and local licensing authorities.
3. The Act regulates the following sectors:
  - Arcades
  - Betting
  - Bingo
  - Casinos
  - Gambling software
  - Gaming machines
  - Lotteries
  - Remote (online) gaming.

4. The Gambling Commission is responsible for licensing operators and individuals involved in providing the above activities.
5. Licensing authorities are responsible for:
  - Issuing gambling operators with premises licences
  - Issuing gambling operators with permits (which allow low stakes gambling in venues which are primarily not for gambling)
  - Registering societies – allowing them to hold small lotteries
  - Compliance and enforcement of the Act locally.
6. Licensing authorities are required under section 349 of the Gambling Act 2005 to prepare and publish, every three years, a statement of the principles which they propose to apply when exercising their licensing functions. The Act requires that before the licensing authority publishes its statement of licensing principles it must carry out a public consultation exercise.
7. Section 153 of the Act provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it:
  - In accordance with relevant codes of practice
  - In accordance with the guidance for licensing authorities issued by the Gambling Commission
  - Reasonably consistent with the licensing objectives
  - In accordance with the authority's statement of licensing policy.
8. Gambling premises in Southwark are declining, from 90 in 2013 to 55 in 2022, due to a combination of issues such as an increase in online gambling which is more easily accessible to gamblers from mobile phones and tablets and a reduction in prizes for category B machines in betting premises.
9. The Council does not licence online Gambling, it is licensed nationally by the Gambling Commission.

## **KEY ISSUES FOR CONSIDERATION**

### **Draft Policy**

10. The proposed policy has been consulted on for the six week period from 17<sup>t</sup> January 2022 until 27 February 2022.
11. It is not intended to make any major changes to the policy on this renewal as there has been no significant recent changes to gambling legislation or statutory guidance. No issues have been raised with regards to the policy during the last three year period and the number of applications received by the council is very low.

12. The changes that have been made to the policy are:
  - To update Section 2 – All about Southwark.
13. No responses were received during the consultation period for the licensing policy from residents, the gambling industry or their representatives.
14. Any amendments made by the licensing committee will be incorporated into the draft policy and presented to council assembly on 23 March 2019.

## **COMMUNITY, EQUALITIES (INCLUDING SOCIO-ECONOMIC) AND HEALTH IMPACTS**

### **Community impact statement**

15. The Southwark statement of gambling licensing policy recognises that as long as gaming and betting premises are well run and premises management acknowledges the value of working together with the local community, they can make a significant contribution toward building community cohesion and cultural development.
16. The policy equally recognises that negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. With gaming and betting establishments there are also risks of individual gambling addiction.
17. The policy seeks to provide the necessary balance between responsible business operators contributing toward a thriving business and late night economy whilst ensuring that the quality of life of those who live and work in the Borough is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.
18. Central to this, is a licensing process which aims to be inclusive and ensures that local community concerns are understood, debated and resolved. This is supported by offering broad support to licensees, through the range of involved authorities, to establish best practice management, and by a strong directed enforcement resource.

### **Equalities (including socio-economic) impact statement**

19. Equality impact assessments are an essential tool to assist councils to comply with the equalities duties and to make decisions fairly. Equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.

20. An assessment was carried out before the revision of the amendments were made to Section 2 – All about Southwark of the policy. Members will need to consider whether there are any potential negative impacts on the protected characteristics as outlined in the assessment at the committee hearing. A further assessment has carried out following the public and statutory consultation in preparation for returning to the licensing committee. The current assessment is available in Appendix B. Any decision made by members of the committee will also have to hold this in mind.
21. The Gambling Act 2005 requires that each revision of the licensing authorities statement of policy is subject to consultation which is required to take place with
  - Chief officer of police for the authority's area
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
  - 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.
22. The statutory consultees were notified of the review and consultation of the gambling policy and how to respond. The consultation has also been advertised in the at the council's offices in Tooley street and on the council's website. The draft policy has been available for comment for a six week period on the council website.

### **Health impact statement**

23. The Gambling Act 2005 does not include health as a licensing objective except in the extend of the second licensing objective which is:
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
24. In promoting this objective, operators of licensed premises are required to comply with licensing conditions and codes of practice issued by the Gambling Commission aimed at reducing risks associated with gambling to children or vulnerable adults
25. Section153 of the Act requires licensing authorities, in exercising their functions, to have regard to any code of practice issued by the Commission. A full version of the Commission's licence conditions and codes of practice (LCCP) is available on the Commission's website:  
<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/online>.

## **Climate change implications**

26. Following council assembly on 14 July 2021, the council has committed to considering the climate change implications of any decisions.
27. The impact on climate change has been considered. As licensed gambling premises are usually small premises catering for local patrons the operation of the premises under the licence is not considered to have a significant effect on climate change.
28. Decisions on gambling licences must be in line with the licensing objectives, however as gambling premises require planning consent, climate change can be addressed as part of the planning process.

## **Resource implications**

29. This extension of the Southwark statement of gambling licensing policy 2022-2025 does not have any resource issues in itself.
30. The resource costs of managing this process may be borne within the current licensing budget.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Democracy**

31. The Gambling Act 2005 ("the 2003 Act") requires the council, as the licensing authority, to prepare and publish a statement of its gambling licensing policy every three years.
32. In determining its policy, the council is exercising a licensing function and as such must have regard to codes of practice issued under section 24, the guidance issued by the Secretary of State under section 25 of the 2005 Act. It must also give appropriate weight to the views of those persons/bodies listed in the Act which it is required to consult before determining its policy.
33. Although the guidance represents best practice, it is not binding on the council. As long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full reasons for their decisions, which must be consistent with the objectives of the 2003 Act.
34. The council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is

important that full reasons are given for departing from the published statement of licensing policy.

35. Members should note that the 2005 Act imposes a duty on the council, as the licensing authority, to carry out its functions under the Act with a view to promoting the three licensing objectives, namely:
  - 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
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
36. Each of these objectives is of paramount and equal importance. There are no other licensing objectives and therefore the council cannot reject an application for a licence or impose conditions on a licence for any purpose unrelated to the promotion of these objectives.
37. The statement of gambling licensing policy cannot seek to impose blanket conditions. Each application must be considered on its own merits. Conditions can only be imposed on a licence if they are necessary to promote the licensing objectives in relation to the specific premises and are a proportionate response to the specific situation to be addressed. The guidance provides that if the situation the condition is intended to address is already addressed by a provision in the 2005 Act or any other legislation then the condition cannot be said to be 'necessary'.
38. The licensing is about regulating the carrying on of gambling activities within the terms of the 2005 Act. The statement of gambling policy should make it clear that gambling law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business carrying on gambling activities. However, the guidance also states that gambling law is a key aspect of such control and should always be part of a holistic approach to the management of the evening and night-time economy. It is therefore desirable that the statement of licensing policy is in line with the council's wider objectives and consistent with other policies.
39. Members should note that the statement of gambling policy must not be inconsistent with the provisions of the 2005 Act and must not override the rights of any individual as provided for in that Act. Nor must the statement of gambling policy be inconsistent with obligations placed on the council under any other legislation, including human rights legislation. Members should also note that the council has a duty under section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority

under the 2005 Act, to do all it reasonably can to prevent crime and disorder within the borough.

40. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties, with regard to race, disability and gender. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. Gender equalities duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995.
41. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly and equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.
42. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, decisions relating to licensing matters cannot be the responsibility of an authority's executive. The 2005 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by council assembly.

#### **Strategic Director of Finance and Governance (E&L/15/016)**

43. The Strategic Director of Finance and Governance notes the recommendations for the continuation of the Southwark statement of gambling licensing policy for 2013-2016 pending a full review and that the head of service has confirmed that the cost implications of this updated policy will be contained within the existing licensing revenue budget for the division.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
The Gambling Act 2005 plus secondary regulations <a href="https://www.legislation.gov.uk/ukpga/2005/19/contents">https://www.legislation.gov.uk/ukpga/2005/19/contents</a>	The Licensing Service, Southwark Council C/O PO BOX 64529 London SE1P 5LX	Mrs Kirtikula Read Phone number: 020 7525 5748
The Gambling Commission Guidance to Local Licensing Authorities <a href="https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities">https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities</a>		

## APPENDICES

No.	Title
Appendix A	Draft Southwark Statement of Licensing Policy 2022-2025
Appendix B	Equalities Impact Assessment

## AUDIT TRAIL

<b>Lead Officer</b>	Caroline Bruce, Strategic Director of Environment and Leisure	
<b>Report Author</b>	David Franklin, Neighbourhood Nuisance Service Manager	
<b>Version</b>	Final	
<b>Dated</b>	28 February 2022	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	28 February 2022	