

Item No. 8.2	Classification: Open	Date: 25 November 2015	Meeting Name: Council Assembly
Report title:		Gambling Act 2005: Southwark Statement of Gambling Licensing Policy 2016-2019	
Ward(s) or groups affected:		All wards	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That council assembly agrees to the continuation of the Southwark statement of gambling licensing policy for 2013-2016 (as revised at Appendix A) beyond 31 January 2016, pending full review of the policy document in the light of the publication of the fifth edition of the Gambling Commission guidance to local licensing authorities (September 2015).

BACKGROUND INFORMATION

2. The Gambling Act 2005 introduced a new 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 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. This authority's statement of principles (The Southwark statement of gambling licensing policy) was first published in January 2007. It was compiled having regard to a broad range of contributions from responsible authorities; representatives of the industry; and of the community. It has been subject of several reviews and amendments as policy and guidance has changed over the years. The current version of the policy (2013-2016) was approved by council assembly in July 2013 and is now due for review and renewal.
9. In the summer of 2015, the Gambling Commission consulted on the content of the fifth edition of its guidance to local licensing authorities. The final version of this revised guidance has been published as this report is being written.
10. The revision of the guidance set out to:
- Provide greater clarity about the range of powers afforded to licensing authorities under Section 153 of the Act, balanced by the statutory aim to permit gambling subject to reasonable consistency with the licensing objectives.
 - Reinforce the importance of the statement of licensing policy in setting out how the licensing authority intends to use its powers to manage risk to the licensing objectives locally.
 - Promote local partnership working between licensing authorities and businesses so as to facilitate a coordinated response to local issues.
 - Reflect changes to the Commission's social responsibility provisions within the licence conditions and codes of practice (LCCP).
 - Ensure the guidance can accommodate innovation and changes to the regulatory environment.
 - Set out the range of statutory powers provided by other legislation, which licensing authorities could use to resolve gambling issues.
 - Further clarify the relationship between the Commission, licensing authorities and other responsible authorities, with a strong focus on the sharing of information between these groups.
11. As such, the new guidance incorporates completely new content and comprehensive rewrite of some parts. Due to the fact that this new information is crucial to the revision of this authority's own statement of gambling licensing policy, it is proposed that the 2013-16 policy document be 'carried over' beyond 31 January 2016 (the date when renewal is due) so as to allow time for the content of the new guidance to be considered and digested and a new local draft policy document to be developed.
12. This approach was considered and endorsed by the licensing committee at its meeting of 2 November 2015. Council assembly is therefore recommended to 'carry over' the current policy

beyond 31 January 2016, as the authority's policy for 2016-2019, pending full review of the policy in the light of the Commission's revised guidance.

KEY ISSUES FOR CONSIDERATION

Revisions to the content of the policy for purposes of accuracy

13. A copy of the draft Southwark statement of gambling licensing policy 2016-19 is attached at Appendix A.
14. At this stage, the only changes that have been made to the content of the 2013-16 policy are those that have been necessary to deal with inaccuracies that have developed since the original publication of the policy document. These are:
 - To deal with the political composition of the authority under Section 2 – All About Southwark.
 - To acknowledge within the document the change in the body competent to advise the licensing authority about the protection of children from harm, as this role transfers from the Southwark safeguarding children board to Southwark childrens' social care services.
 - Noting the date of publication of the latest Commission Codes of Practice within Section 5 on premises licences.
 - Acknowledging the change in branding of the Southwark Proof of Age (SPA) card to the (Southwark) Proof of Age London card (Section 5).
 - Updating contact details within section 9 of the document.
15. All other content of the 2013-2016 policy is left unchanged at this point in time.

Consistency with the Gambling Commission guidance to local licensing authorities

16. While there is considerable new and amended content to consider within the new revision of the Commission Guidance, the new guidance does not provide any significant or direct contradiction with the proposed extended Southwark policy in the meantime.
17. However, it has always been recognised that because of the need to revise guidance at intervals there will always be times when a local licensing authority policy may not be wholly consistent with the latest edition issued. Where this situation occurs, the latest guidance should be referred to where appropriate.
18. In the event that applications for gambling premises licences are submitted to the council in the intervening period pending review of this authority's local policy, then the latest relevant information will be reported to the sub-committee making the determination at that time.

Timetable for review of the policy

19. It is known that some changes to the guidance could give rise to some considerable policy development, particularly around the development of a local area profile to be used by future licence applicants and current licensed operators as a basis for their risk assessment of and response to local issues.
20. It is hoped that a revised draft licence policy can be developed and reported back to the

committee in spring 2016 before going out to public consultation in summer 2016. This would provide for a revised policy document being presented to the committee and the assembly in the autumn / winter 2016.

Community impact statement

21. The Southwark statement of gambling licensing policy acknowledges that well run gaming and betting premises, following good management practice, make a significant contribution to the local community.
22. 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.
23. The policy seeks to provide necessary balance. It intends to support responsible business operators that contribute toward a thriving business and late night economy but also ensure 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.
24. 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.
25. The equalities impact assessment has been revisited as part of the revision of this policy. As the extension of this policy document is primarily a technical matter, no new issues are identified at this stage.

Resource implications

26. This extension of the Southwark statement of gambling licensing policy 2013-16 does not have any resource issues in itself.
27. The resource costs of managing this process may be borne within the current licensing budget.

Consultation

28. 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.
29. Notification of this authority's intention to seek to extend the 2013-1016 policy enabling proper consideration of the revised Commission guidance in advance of a full review of the policy has been given to relevant parties. Details of the public consultation on the eventual review and revision of the policy will be agreed with the committee at the time that the draft revision is presented to it.

30. In the event that council assembly confirms the 'carry over' of the policy then this decision will be announced in a notice published in a local newspaper; on the council's web site; and at the council's offices, in accordance with the statutory requirements.

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 with 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 3-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

Background Papers	Held At	Contact
The Gambling Act 2005 plus secondary regulations	The Licensing Service, C/O PO BOX 64529 London SE1P 5LX	Name: Mrs Kirtikula Read Phone number: 020 7525 5748
The Gambling Commission Guidance to Local Licensing Authorities published September 2015		

APPENDICES

No.	Title
Appendix A	Draft Southwark Statement of Gambling Licensing Policy 2016-2019 (circulated separately to members and available online)

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Richard Parkins, Licensing and Environmental Protection Unit Manager	
Version	Final	
Dated	3 November 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	9 November 2015	