

PLYMOUTH CITY COUNCIL

Subject: Gambling Act 2005 – Statement of Licensing Policy
Committee: Council
Date: 19 November 2018
Cabinet Member: Councillor Sally Haydon
CMT Member: Ruth Harrell, Director of Public Health
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Ref:

Key Decision: No
Part: I

Purpose of the report:

The report provides details of the three year review of the City Council's Gambling Act Statement of Licensing Policy and contains a draft policy to commence from 31 January 2019. The Statement of Licensing Policy is specified within the Council's Policy Framework, therefore, Full Council is required to consider and formally adopt the revised policy prior to the expiry of the current policy on the 30 January 2019.

The Gambling Act 2005 (the Act) creates the regulatory system that governs the provision of all gambling in Great Britain, other than for the National Lottery and spread betting. The regulation of gambling aims to promote the following licensing objectives:

- 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.

Plymouth City Council is designated as a licensing authority for the purposes of the Gambling Act 2005 and is responsible for granting premises licenses within its area. Gambling premises would include casinos, bingo halls, betting shops, adult gaming centres and family entertainment centres. The Gambling Commission regulate the operators of gambling activities and how gambling is undertaken.

The Act requires the Council to review and publish a Statement of Licensing Policy every three years on how we will exercise our functions over the three year period to which it applies.

The new policy includes the Council's expectations of gambling premises under the responsibility code; the need to have local risk assessments held on the premises and provides guidance on how businesses can protect children from child sexual exploitation.

Corporate Plan

The relationship to the Corporate Plan (and Plymouth Plan) –

Growth – Gambling is a part of the local leisure and entertainment industry offered within the City. This revised policy will provide businesses with a consistent and transparent view of how the Council will consider premises licence applications in respect to the design, layout and operation of premises used for gambling activities

Caring – Gambling activities could negatively affect a participant’s welfare. This revised policy and the licensing system will assist in minimising the risk of negative impact as far as the law allows. The statutory controls via the Gambling Commission and Local Authorities will assist in excluding children and young persons from accessing age-restricted activities, or those with any gambling addiction.

Plymouth Plan – the Policy will assist in the delivery of Policy HEA5 – Delivering safe and strong communities and good quality neighbourhoods.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

None

The Gambling (Premises Licence) Fees (England and Wales) Regulations 2007 sets out the standards to be followed in the setting of gambling fees and charges. The regulations do not set a specific fee that the authority must charge but set a maximum that cannot be exceeded.

The Council Constitution Scheme of Delegation has delegated responsibility for setting fees to the Licensing Committee, who have determined that its fees should be set at the maximum level to secure full cost recovery in carrying out its regulatory functions as specified in the Act.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The Equalities Impact Assessment concluded that the new Statement of Licensing Policy would promote equality. It is a statutory requirement that no persons under the age of eighteen shall be permitted entry to age-restricted licensed premises for the purposes of gambling, although there is no upper limit. There are no restrictions that apply to any of the other protected characteristics i.e. disability, gender, race and sexual orientation.

Problem gambling can cause significant social and health problems, irrespective of socioeconomic status. The adverse impacts on family members, including children, are also clear (34% of callers to Gamcare reported gambling affected the family, friend or partner). Problem gambling can exacerbate child poverty. Parents who have a gambling problem may adversely affect their children’s well-being; they are less likely to parent well; they will have less money to spend to meet their family’s needs; and they may be less able to work.

Local data identifying the number of persons who are at risk of or those that experience problem gambling is not easily obtainable. National surveys are undertaken periodically by NatCen which show that 3.9% of adults are classified as “at risk” using the Problem Gambling Severity Index (PGSI). Problem gambling was more prevalent among people who had participated in a number of gambling activities in the past year. Prevalence was 11.9% for those who participated in seven or more activities compared to 0.3% of these who had taken part in just one gambling activity in the past year.

The policy seeks to allow licensed premises the legitimate opportunity to undertake licensed gambling activities providing that they are lawful and within their licensing requirements, in particular in respect to the protection of young persons and other vulnerable persons.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

That the City Council adopts the Gambling Act Statement of Licensing Policy contained in Appendix A with effect from 31 January 2019.

Alternative options considered and rejected:

No alternative options are available

In order to comply with statutory requirements the Policy must be considered and adopted by City Council at the meeting set for 19 November 2018. There is a statutory requirement to publish the revised policy, at least four weeks before the date on which it comes into effect. Failure to meet these timescales would result in the Council not being able to process any applications after the 31 January 2019 until a new policy statement had been formally approved.

Published work / information:

[Gambling Act 2005](#)

[Gambling Commission Guidance to Local Authorities \(5th Edition\)](#)

[Plymouth City Council - Gambling Act Statement of Principles 2016 to 2019](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Responses to consultation	x								
Equality Impact Assessment	X								

Sign off:

Fin	pl.18. 19.10 3	Leg	SD/3 0298 /26.9 .18	Mon Off	AL T/3 05 08.	HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

1.0 BACKGROUND

- 1.1 The Gambling Act 2005 (the Act) contains the regulatory system that governs the provision of all gambling in Great Britain, other than for the National Lottery.
- 1.2 Plymouth City Council is designated as a 'licensing authority' for the purposes of the Gambling Act 2005 and is therefore responsible for granting premises licenses within its administrative district in respect of;
- Casino premises;
 - Bingo premises;
 - Betting premises, including tracks;
 - Adult Gaming Centres;
 - Family Entertainment Centres.
- 1.3 The Gambling Commission regulates gaming and certain lotteries. They are responsible for issuing new operating licences under the Act to organisations and individuals who are providing facilities for gambling and personal licences to certain categories of people working in the gambling industry. In general the Gambling Commission regulate the operation of the gambling activities, whilst the Licensing Authority regulates the environment in which the gambling activity takes place, such as the building.
- 1.4 The Gambling (Premises Licence) Fees (England and Wales) Regulations 2007 sets out the standards to be followed in the setting of gambling fees and charges. The regulations do not set a specific fee that the authority must charge but set a maximum that cannot be exceeded. The Council Constitution Scheme of Delegation has delegated responsibility for setting fees to the Licensing Committee, who has determined that fees should be set at the maximum level to secure full cost recovery in carrying out its regulatory functions as specified by the Act.
- 1.5 The report provides details of the 3 year review of the City Councils Gambling Act Statement of Licensing Policy and contains a draft policy to commence from 31 January 2019. The Statement of Licensing Policy is specified within the Council's Policy Framework, therefore, Full Council is required to consider and formally adopt the revised policy prior to the expiry of the current policy on the 30th January 2019.

2.0 STATEMENT OF LICENSING POLICY

- 2.1 The Council are required to publish a Statement of Licensing Policy regarding the exercise of their functions in a manner, which is consistent with three licensing objectives. The licensing objectives are:
1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 2. Ensuring that gambling is conducted in a fair and open way, and
 3. Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Council's existing Statement of Licensing Policy is due to expire on the 30 January 2019, therefore the current review must be completed and the revised policy in place by this date in order for the Council to continue to be able to administer this legislative function.

2.2 The Council's revised policy is divided into three parts.

Part A sets out a **statement of principles** of how the Council, as the licensing authority, will discharge its functions, its policy on the exchange of information and the better regulation principles that will be applied;

Part B sets out the **general principles of how the Council will consider applications**, its relationship with other agencies and the relevance of licensing conditions;

Part C sets out **how the Council will issue gaming machine permits**.

2.3 Most people who gamble do so safely most of the time. But gambling can be harmful for some. Excessive play due to inexperience or binge gambling, periods of loss of control and more serious gambling addiction. The harm suffered is not restricted to the gambler, but also felt by families, friends, communities and employers.

Inequalities and the protection of children and vulnerable persons is a priority for the City. Parents who have a gambling problem may adversely affect their children's well-being; they are less likely to parent well; they will have less money to spend to meet their family's needs; and they may be less able to work.

2.4 The new policy provides an additional section with regards to the Local Authorities expectations of gambling premises under the social responsibility code.

Harmful gambling is increasingly cited as a public health issue which requires a broad response; that is to say, traditional approaches that focus on single interventions do not tend to work at a population level.

Plymouth City Council Licensing Department are currently working with Public Health; Devon County Council and the other Devon and Cornwall Local Authorities; the Gambling Commission; Gamcare and a gambling machine supplier to review the findings and recommendations of the recent Local Government Association paper 'Tackling Gambling related harm – a whole Council approach'. This publication provides an overview of problem gambling, and how councils can begin to try to help local residents who are impacted by it. The Council will provide consistent support and advice to businesses to ensure they have effective procedures in place to protect people from gambling related harm and promote the licensing objectives.

2.5 The policy also provides clarification for existing operators and applicants about what is expected to be included in the local risk assessments to ensure that the assessments are tailored to the local area and not a generic form. The risk assessments must be available on site and copies provided if requested by the Licensing Authority.

2.6 Councils have the discretion to create Local Area Profiles (LAPs).

The statement of policy refers to the LAPs that will be published on the City Council's website after the statement of policy has been approved. In this way LAPs can be updated without the need for City Council approval and will make them a more responsive tool.

Local Area Profiles provide a baseline of data which will help to identify elements of our local communities which may be vulnerable to gambling activities. Areas of vulnerability must be addressed through the gambling operators risk assessments and ultimately will be used when considering the suitability of an application.

- 2.7 Further clarification has been provided about what is expected to be included in application and to ensure premise licence holders make a new application or variation where any plans of the premises are altered. Clarification has been provided to ensure there is tangible and evident separation between premises such as screening, walls, clear signage, PIR alarms etc. Site Plans should be scaled and provide sufficient detail of the layout of the premises and to assist with demonstrating how the premises will be adequately supervised.

A Pool of Licensing Conditions have been included in Appendix C to the policy to assist applicants in offering to include conditions with their applications ensure the licensing objectives are promoted.

- 2.8 The Policy clarifies what the Licensing Officers will expect during routine inspections to ensure all gambling operators can prepare for inspections and ensure all documentation is in place.
- 2.9 The requirement for premises to operate a proof of age scheme has been updated to include a 'Challenge 25' policy.

The updated policy includes a requirement for the results of any under-age testing that is carried out on the Gambling Premises to be shared with Licensing, Trading Standards or the Police and used to review the local area risk assessment.

- 2.10 Appendix B to the policy has been included to demonstrate how gambling premises licence and permit holders can assist tackling child sexual exploitation and ensure that safeguarding is everyone's business across the City.

3.0 PUBLIC CONSULTATION

- 3.1 The Council is required to consult publicly with stakeholders affected by the administration of its functions under the Act. A four week public consultation exercise was undertaken between 14 August 2018 and 14 September 2018, which included writing to the following interested parties:

Citizen's Advice Bureau
Safer Plymouth
Devon and Cornwall Constabulary
Plymouth City Council
 Social Services
 Education
 Public Health
 Team Plymouth
 Environmental Health
Devon & Somerset Fire and Rescue Service
Gambling welfare support organisations
Gambling Commission
Local businesses groups

Local faith groups
 Local residents groups
 NSPCC
 Existing licence-holders
 Voluntary & Community organisations working with children & young people
 Ward Councillors

3.2 The Gambling Act Statement of Licensing Policy is specified within the Council’s Policy Framework. In accordance with the Constitution the Cabinet Member for Safer and Stronger Communities referred the draft Policy to the Performance, Finance, and Customer Focus Overview and Scrutiny Committee for consultation. The Committee did not wish to review the policy at this stage.

3.3 A total of two responses were received and are summarised below.

No	Date received	Responses received	Response from Plymouth City Council
1	21.8.18	<p>Many thanks for the letter you sent to our office on 14 August. As a part of the review I have read through the documents and would want to endorse:</p> <p>Openness</p> <p>1.13 The Council is aware that the Gambling Commission has responsibility for ensuring that gambling is conducted in a fair and open way via operating and personal licences. However, this does not preclude this from being considered during premises inspections. The Licensing Authority will need to consider this objective in detail and may add conditions in situations where an operating licence is not in place, such as in the licensing of tracks.</p> <p>Children and Vulnerable Persons</p> <p>1.14 The Council notes the Gambling Commission’s Guidance to protect children and other vulnerable persons from being harmed or exploited by gambling. This objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.</p> <p>The Council notes the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.</p> <p>The Council recognises that the Gambling Commission does not seek to offer a definition of the term “vulnerable persons” but that “it does for regulatory purposes assume that this group includes people who gamble more than</p>	<p>Thank you for your support of these sections of the proposed policy. This will be included as documented and safeguarding will be a high priority.</p>

		<p>they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”.</p> <p>Where physical barriers are required to separate activities due to differing age restrictions the applicant must provide sufficient information with regards to the height, transparency and materials to be used. The licensing authority will require barriers to be designed and constructed to prevent inadvertent access and viewing of restricted areas. Adequate supervision within these areas must also be maintained.</p> <p>We expect all operators to have a safeguarding policy in relation to children and vulnerable adults. All staff will be expected to undertake training regarding:</p> <p>As a part of your review please be mindful of this particular section, which impacts a wide range of people and has implications on the wider community. Our response to the consultation would be to support this definition and ask that it is understood and that Safeguarding is the highest priority.</p>	
2.	7.9.18	<p>Further to the publication of your draft policy for gambling licensing, we wish to respond to the following points:</p> <p>Throughout the document, there is repeated reference to ‘Challenge 25’. I am aware that this scheme is widely used in liquor licensing, but for gambling, all operators use a similar ‘Think 21’ scheme, which is accepted by the Gambling Commission. As an operator with around 2300 shops, we clearly need to adopt the same policy throughout our estate, so we would ask that you revise the document to reference ‘Think 21’, consistent with the rest of the country.</p> <p>We would also like to respond to the following point:</p> <p>14.1 The results of any under-age testing that is carried out by the Gambling Premises should be kept on the premises and used to review the local area risk assessment.</p> <p>We do conduct our own Age Verification testing, but the results would not be kept in branch. The results are discussed with our Primary Authority as well as the Gambling Commission, and retained centrally by our compliance department. It would not be appropriate to retain such results in shop, where all members of staff were able to see them, given that there can be disciplinary measures taken as a result of this testing.</p> <p>I would be grateful if you would consider the above points when finalising the document. If you want to</p>	<p>Thank you for your feedback. PCC encourage the use of ‘Challenge 25’, however alternatives such as ‘Think 21’ are acceptable. The wording within the policy states ‘Proof of Age Schemes such as Challenge 25’ so you are able to use an alternative. The recommended conditions have been kept with Challenge 25 as this is deemed best practice but these are only suggested conditions and will be negotiable as part of any application/variation.</p> <p>We would only require the outcome of the test purchase and would not require any confidential details to be kept. However, the wording has been altered to say that</p>

		discuss any of the above, please get in touch.	the results should be shared with Licensing, Trading Standards or the Police so that you don't have to store them onsite.
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