

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 8 July 2021

Report author: Senior Licensing Officer (AY)

Title: Gambling Act 2005 - Statement of Principles 2022-2025

1.0 Summary

- 1.1 The council is the local licensing authority under the Gambling Act 2005 and is required to review, consult upon and publish a policy document every three years. The current policy expires on 6th January 2022.
- 1.2 The council is required to review its policy in accordance with the statutory guidance and legislation.
- 1.3 This report sets out the proposals from officers regarding the review of the policy and the consultation on the new policy.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Legal challenge from failure to properly adopt the policy or follow legislation and guidance	Failure to meet requirements under the Gambling Act 2005 and policy not being able to be implemented.	Ensure that the policy is reviewed and adopted before 6 January 2022.	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the courts.	Carry out consultation in accordance with legal requirements under the Gambling Act 2005 and in	Treat	2

		accordance with the Government's published principles of consultation.		
Policy is unreasonable, irrational, discriminatory etc.	Legal challenge through the Courts	Ensure that the results of the public consultation are taken into account in the final policy.	Treat	2
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to subsequent committee meetings	Treat	2

3.0 Recommendations

3.1 That officers consult upon the draft policy attached to this report subject to any amendments proposed by the Committee. Consultation on the draft policy would start after the July Committee, running for 6 weeks from 14 July until 25 August 2021. The results of the consultation and the final policy and equalities impact assessment would be considered by the committee in September 2021.

3.2 That the Licensing Committee recommends that the Council resolves under section 166 of the Gambling Act 2005 that it will continue with the policy to not issue any casino premises licence.

Further information:

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Report approved by: Justine Hoy, Head of Community Protection

4.0 Detailed proposal

4.1 Background

4.2 Under the Gambling Act 2005 the council is responsible for preparing a 'statement of principles' setting out how it exercises its various responsibilities in terms of issuing premises licences, liaising with the Gambling Commission (a national co-

regulator), carrying out its enforcement functions and issuing permits for small-scale gambling such as machines in alcohol-licensed premises and registering small society lotteries.

4.3 The existing statement of principles was adopted at a meeting of Full Council on 16th October 2018 and is due to expire on 6th January 2022. The council is required to update its statement of principles before the current one expires. This report sets out the approach that officers intend to take upon reviewing policy and consulting upon a draft policy.

4.4 In preparing the statement the licensing authority must have regard to the three licensing objectives of the Gambling Act, 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.

4.5 To give context for Watford, the following table sets out the total number of issued licences, as of 01/06/2021

Type of licence	Issued
Adult Gaming Centre	1
Betting Shop	17
Bingo	1
Club Gaming Permit	0
Club Machine Permit	6
Gaming Machines (up to 2 machines)	27
Gaming Machines (more than 2 machines)	15
Small Society Lotteries	69
Track Betting	0
Total Number of Issued Authorisations	136

4.6 Officers would advise that there is no evidence to indicate that widespread changes to the policy are needed and therefore only minor amendments are proposed. The number of applications received since the last policy review are low and the number of complaints regarding gambling are also low.

4.7 The following applications have been received since the last policy review:

Type of licence	Applications received
Adult Gaming Centre	0
Betting Shop	6 (all transfers)
Bingo	0
Club Gaming Permit	0
Club Machine Permit	3
Gaming Machines (up to 2 machines)	2
Gaming Machines (more than 2 machines)	1
Small Society Lotteries	4
Track Betting	0
Total Number of applications	16

All six applications relating to betting shops were to transfer existing licences. No new premises licence applications have been received.

4.8 None of these applications received objections or needed to be considered by a licensing sub-committee. It should be noted that the licensing authority has no discretion to refuse notifications of premises offering up to 2 machines and must register the notification if notification is given correctly.

4.9 Since the last policy review, 5 complaints have been received regarding gambling, with all complaints regarding poker competitions or illegally sited gaming machines where no permission for the activity was in place. No complaints have been received regarding premises licensed under the Gambling Act 2005.

4.10 Currently, Watford is not one of the areas of the country where casino licences can be issued. However, the council is advised to pass a resolution that it will continue not to issue any casino licences in order to protect this position should the regulations regarding casino licences change. This resolution is currently contained at paragraph 12.1 of the existing statement of principles.

5.0 Draft policy

5.1 Officers have prepared a draft policy for consultation, and this policy is attached at appendix 1.

5.2 The guidance issued by the Gambling Commission was recently revised (as of May 2021) and so the policy has been revised to take into account changes in this guidance. Other minor changes have also been proposed to provide more information for applicants and licence holders, and to bring some consistency with other licensing policies.

5.3 Officers would consider that the most significant proposed changes to the policy are as summarised below:

Section	Change	Reason
1.3 Parties consulted on policy	Updated wording	To be consistent with guidance and legislation
2.4 Private gaming	Updated wording	To be consistent with wording in guidance
3.9 Operating licences	Added that applicants for track premises licences don't require an operating licence	To reflect the legal position and add clarity
3.17 Protection of children	Removed section on proposed changes to access to premises by children to casinos	Gambling Commission guidance on this matter has been issued
3.23 & 5.2 Consultation with Public Health	Added that Public Health will be consulted on the policy document	To add clarity and confirm our approach
Section 4	Various amendments to information about the Borough	To update the information
4.12 Local area profile	Confirm that no local area profile is being developed	To confirm that no local area profile is in place
5.4 Child protection	Added that Hertfordshire Safeguarding Partnership are designated as a competent body to advise on the protection of children from harm	To explicitly state that Hertfordshire Safeguarding Children Partnership is our designated body
6.6 Representations	Removed reference to submitting representations in duplicate and in black ink	Updated to remove burden from people making representations and with consideration that people may submit objections by email
9.4 Access to licensed premises	Update wording	To be consistent with legal position and the guidance
9.8 Provisional statements	Added that a subsequent licence may be refused if the premises is not constructed as per a provisional statement	To reflect the legal position and be consistent with the guidance

Section	Change	Reason
11.1 Conditions for FEC licences	Added that the list of suggested conditions is not mandatory nor exhaustive	To add clarity that these are not the only matters that we will consider, and to bring consistency with other areas of our policy
14.9 Primary activity	Updated wording	To reflect the legal position and be consistent with the guidance
15.12 Display on betting rules	Updated wording	To adopt the approach suggested in the guidance and to add clarity on our expectations
17.2 Grounds for accepting reviews	Updated wording	To be consistent with the guidance
17.3 Expectations of responsible authorities	Added new section adding that responsible authorities would be expected in most cases to warn premises before submitting a review	To bring consistency with other licensing policies (specifically issued under the Licensing Act 2003) and in order to be consistent with the approach of Hertfordshire Better Business for All
17.4 Licensing authority compliance	Added new section confirming that any enforcement action, including reviews, will be conducted in accordance with our compliance policy	To add clarity over our approach
17.7 Evidentiary basis	Added new section advising evidential basis must be laid before licensing sub-committee	To bring consistency with other licensing policies (specifically issued under the Licensing Act 2003) and in order to be consistent with the principles of natural justice
18.8 Family entertainment centre permits	Removed reference to submitting duplicates of application documents	Remove burden from applicants
19.1 Gaming machine notifications	Added wording that confirms that the notification process is as prescribed under the Gambling Act 2005	To add clarity and confirm the legal position

Section	Change	Reason
19.2 Removal of automatic authorisation	Added wording to highlight when this right can be withdrawn	To reflect the legal position and be consistent with the guidance
20.3 Prize gaming permits	Added wording to confirm that the licensing authority may wish to have regard to the licensing objectives when considering applications	To be consistent with the guidance and be clear to decision makers on their options
20.4 Conditions on permits	Removed reference to conditions that are automatically attached to such permits	This was a duplication of mandatory conditions, and could be outdated should these conditions change

- 5.4 As can be seen from the table above, most changes are with regards to bringing about consistency between our policy and other licensing policies that the council operates, with specific reference made to policy under the Licensing Act 2003 since there are similarities between the two licensing regimes, and the Gambling Commission's guidance.
- 5.5 Although there have not been any reviews brought under the Gambling Act 2005, this section is proposed to be expanded in order to be consistent with our approach for licence reviews under the Licensing Act 2003 and to promote the principles of natural justice. This approach would assist in decision making should we be called to review a licence.
- 5.6 The full proposed statement of principles, with all amendments highlighted, is attached at appendix 1. This shows all amendments detailed above as well as those made as part of general good housekeeping and updates to dates, document names, and organisational changes.
- 5.7 **No casino resolution**
- 5.8 The licensing authority is able to pass a resolution that it will not consider granting any casino licences under the Gambling Act 2005. This resolution has been in place in Watford since 2007, when the Act came into force. Officers have not been provided with any evidence or arguments that suggest that this resolution requires revision and therefore have not proposed a change to this approach. The draft statement of principles includes details of a new resolution to this effect at paragraph 12.1.
- 5.9 It is for the licensing authority to determine whether or not to continue with a no casino resolution. It has been held previously that the borough does already have a diverse night-time economy, focussed around the town centre, and that the grant

of a casino licence would not be consistent with the council's ambitions for the town centre or borough as a whole. The redevelopment of the Atria shopping centre has seen the provision of more family friendly entertainment facilities, as well as restaurants, and venues such as an escape room, a bowling alley, and a cinema.

- 5.10 It should be noted that the resolution not to grant a casino licence would extend to the whole borough and cannot apply to specific premises or geographical areas.
- 5.11 For clarity, although it will be for full council, as the licensing authority, to pass such a resolution, we would ask the Committee to recommend to council whether or not to pass such a resolution.

6.0 Consultation

6.1 We will be required to undertake a consultation on the new proposed statement of principles.

6.2 The Gambling Act is clear that the following bodies must be consulted:

- The Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- 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 under this Act

6.3 Officers would propose consulting the following bodies and organisations directly:

- All responsible authorities under the Gambling Act 2005 (Police, Gambling Commission, Herts Fire & Rescue Service, Development Management, Environmental Health, Hertfordshire Safeguarding Children Partnership, HM Revenues & Customs)
- All premises licence, permit, and gaming machine notice holders issued under the Act (as representatives of gambling businesses)
- All agents (e.g. solicitors) for applications submitted under the Gambling Act 2005 since the current policy came into effect (as representatives of gambling businesses)
- Residents' associations (as representatives of persons likely to be affected by the exercise of our functions)
- Watford Business Improvement District
- Watford Community Safety Partnership

6.4 Consultation would run for 6 weeks from 14 July until 25 August.

- 6.5 The consultation would be a public consultation, and so for clarity not only the parties above would be consulted, but they would be contacted directly in accordance with the Government's Consultation Principle of consultations being targeted.
- 6.6 The legislation and regulations require us to advertise the consultation on our website and in one or more places where the document can be inspected by the public at reasonable times. We would propose that a copy of the proposed policy be kept at the Town Hall for this purpose. A notice shall be displayed in one or more of the following places; a local newspaper, circular, or similar circulating in the Borough; a public notice board in or near the principal office the authority; a public notice board on public libraries in the Borough. We would propose to display notices at the Town Hall for this purpose.
- 6.7 We will bring the results of the consultation on the statement of principles back before the Licensing Committee on 30 September for consideration. Licensing Committee would then make a recommendation that the final wording for the statement of principles to be approved by council at the October meeting.

7.0 Implications

7.1 Financial

- 7.2 The Shared Director of Finance comments that costs arising from the consultation process will be met from existing budgets.

7.3 Legal Issues (Monitoring Officer)

- 7.4 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report and the proposed policy.

7.5 Equalities, Human Rights and Data Protection

- 7.6 A new equalities impact assessment will need to be completed as a result of the proposed changes to policy. Due to the application process being set out in legislation, including how applications are to be determined, it is not expected that there will be a negative impact on any particular group as a result of this policy.

7.7 Crime and Disorder

- 7.8 The council is required to consider the effect on crime and disorder when adopting any new or revised policy. One of the licensing objectives preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime and this has been taken into consideration when reviewing the policy.

Appendices

Appendix 1 – draft statement of principles

Background papers

Gambling Act 2005

Gambling Commission Guidance to Licensing Authorities (published April 2021, updated May 2021)