

North East Derbyshire District Council

Licensing and Gambling Acts Committee

11 October 2022

Review of the Council's Policy under the Gambling Act 2005

Report of the Environmental Health Service Manager

Classification: This report is public

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(Licensing)

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(Licensing)

PURPOSE / SUMMARY

To consider the responses to the Gambling Act 2005 policy consultation and recommend the draft Gambling Act 2005 policy for adoption at full Council.

REPORT DETAILS

1 Background (reasons for bringing the report)

- 1.1 Under The Gambling Act 2005 ('the Act'), the Council is responsible for issuing premises licences for casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol licensed premises.
- 1.2 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and 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;
- 1.3 The Gambling Act 2005 imposes a statutory requirement upon North East Derbyshire District Council, as the statutory Licensing Authority to prepare a Statement of Principles (alternatively referred to as a policy). This is the Councils tool in regulating gambling in the district, it sets out what the Councils expectations are as to how operators should behave, and ensures the general public and Responsible Authorities are aware as to how the Council approaches Gambling Regulation.

- 1.4 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 set out the requirements for the form and publication of the policy which the Council proposes to apply when exercising its functions under the Gambling Act 2005.
- 1.5 In 2018 an extensive review was undertaken to ensure that the Council's policy was consistent with the Gambling Commissions Guidance to Licensing Authorities ('the GLA') and in a format common to neighbouring authorities to enable consistency and transparency. The policy, together with a Local Area Profile was published in 2019. The Act requires the Council to republish its policy every three years.
- 1.6 The Joint Environmental Health Service conducted an initial review of the policy and identified a number of minor amendments necessary to bring the policy up to date with the GLA and local demographics.
- 1.7 Following consideration of a draft policy through the Licensing and Gambling Acts Committee, a 12 week public consultation opened between 28 January 2022 and 22 April 2022. The Consultation was carried out through the Ask Derbyshire website, publicised via the Council's website and social media platforms as well as contacting a range of stakeholders directly. A full list of stakeholders can be found at Appendix 1 of the draft policy which can be found attached at **Appendix 1**.
- 1.8 The Council received two responses to the consultation with four separate issues or suggestions. These can be found attached at **Appendix 2** and a response to these can be found under the Public Consultation heading in section 2 of the report.
- 1.9 In addition to these responses members expressed an interest in further exploring the possibility of introducing a cumulative impact policy (sometimes referred to as a 'saturation policy'). Such a policy would aim to restrict the number of Gambling Premises within the district. Officers have explored the matter and the findings can be found under the Cumulative Impact Policy heading in section 2 of the report.

2. Details of Proposal or Information

Public Consultation

- 2.1 Despite a lengthy consultation period, direct communication with partners over the review and promotion through Ask Derbyshire, only a small number of responses were received. This may indicate an indifference to the proposed changes to the policy and that the policy remains fit for purpose. The only significant changes to the policy were to bring the policy up to date with the Gambling Commissions Guidance to Licensing Authorities and to update our local demographics.

2.2 The following is a summary of the responses received and the response of the Joint Environmental Health Service, with amendments being made in respect of some of the concerns

Issue Raised	Service Response
<p>Gambling Premises Should be located on higher levels rather than easy to get to ground floor premises in order to discourage gambling.</p>	<p>The Act places a legal duty on licensing authorities to aim to permit gambling. The GLA also makes it clear that regulatory activities should be proportionate and targeted only at cases in which action is needed. The guidance is clear that local authorities should prevent placing unnecessary burdens on businesses. Blanket policies are avoided to accommodate demographic variation and allow each application to be considered on its own merits. Where the local authorities' discretion is engaged, the policy makes it clear that the location of the premises is a factor for consideration when determining an application.</p>
<p>Less advertisement of gambling facilities.</p>	<p>The rules in relation to advertising gambling products are set nationally by the Committees of Advertising Practice. The responsibility for regulation of these rules sits with the Advertising Standards Authority (ASA) and the Licence Conditions and Codes of Practice (LCCP) set by the Gambling Commission place a direct requirement on licence holders to comply with those codes. Failure to comply with codes would be dealt with by the ASA and the Gambling Commission. The Act and the GLA is clear that where the LCCP places particular responsibilities or restrictions on a licence holder, it is not appropriate to impose the same conditions on a premises licence; nor is it lawful to impose conditions that prevent compliance with those conditions.</p>
<p>The wording in paragraph 4.18 requires further clarity that offered controls refers to measures within the local risk assessment not conditions attached to the licence.</p>	<p>The wording in paragraph 4.18 has been amended to provide clarity that the offered controls relate to those measures outline in the local risk assessment.</p>
<p>Paragraph 5.10 should include an additional statement to specify that the mandatory and default conditions are designed to</p>	<p>The wording in paragraph 5.10 has been amended to provide clarity that usually a licence will be granted subject to the mandatory and default conditions but that from time to time it</p>

be and usually are sufficient.	may be necessary to include additional conditions.
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Cumulative Impact Policy

- 2.3 A Cumulative Impact Policy is one which aims to restrict the numbers of gambling premises within the district. The Gambling Commission's Guidance to Licensing Authorities is clear that the Council's policy should be balanced, responsive to emerging risks and evidence led.
- 2.4 Following a request from members, officers have comprehensively researched guidance and legal advice provided elsewhere and have made the following findings:
- Derbyshire Constabulary are not aware of any current or past gambling related issues and do not have any statistics to support the implementation of a cumulative impact policy.
 - The Council's Community Safety Partnership are not aware of any current or past gambling related issues and do not have any statistics to support the implementation of a cumulative impact policy.
 - Since the Council's last Policy was published there has been a reduction in the number of gambling premises within the district. The number fell from 7 licensed betting premises in 2018 to 4 in 2021.
 - The most recent Annual Statistics from the National Gambling Treatment Service published in 2021 reports that 79% of gamblers are accessing gambling services online.
- 2.5 The findings outlined in paragraph 2.4 above would suggest that there is not currently an emerging risk within the district and evidence is not strong enough to support the implementation of a cumulative impact policy.

Updates Following Consultation

- 2.6 Following the consultation, the aforementioned amendments have been made and the updated draft policy can be found attached as **Appendix 1**. The policy also now contains updated details for the Council's Licensing Team following some internal changes and also provides details of those consulted as part of the review.
- 2.7 Following the consultation, no further amendments were made to the Local Area Profile, of which the draft Local Area Profile can be found attached as **Appendix 3**.
- 2.8 If approved by the Licensing and Gambling Acts Committee a further report will be submitted to the Council for formal adoption of the updated Policy.

3 Reasons for Recommendation

- 3.1 The Council is required to prepare and publish a Statement of Principles under the Gambling Act 2005 every three years.

4 Alternative Options and Reasons for Rejection

- 4.1 The Council can choose not to prepare and publish a new Statement of Principles, however this would leave the authority open to successful legal challenge by way of appeal against decisions on licensing matters or judicial review.
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RECOMMENDATIONS

1. The Licensing and Gambling Acts Committee note the outcome of the public consultation.
2. The Licensing and Gambling Acts Committee note the findings in relation to the Cumulative Impact Policy.
3. The Licensing and Gambling Acts Committee agree to the proposed amendments to the Gambling Act 2005 Policy and Local Area Profile.

Approved by Councillor Liggett - Chair of Licensing and Gambling Acts Committee

IMPLICATIONS

Finance and Risk: Yes No

Details:

There will be a minor cost associated with carrying out the consultation. This can be accommodated from existing budgets.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

It is a legal requirement under the Gambling Act 2005 that a licensing authority prepare and publish a statement of principles every three years. Having a policy which is up to date, compliant with the legislation, fit for purpose and clear to Licence Holders and Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

There are no staffing implications of the proposals in this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
District Wards Significantly Affected	All
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/></p> <p>SAMT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/></p> <p>Members <input checked="" type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/></p>	<p>Yes</p> <p>Details: Chair of Licensing and Gambling Acts Committee</p>

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

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DOCUMENT INFORMATION

Appendix No	Title
1	Draft Statement of Principles 2022-2025 – Gambling Act 2005
2	Consultation Responses
3	Draft Local Area Profile 2022-2025
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Correspondence from Derbyshire Constabulary regarding gambling related crime.	

Correspondence from North East Derbyshire District Council's Community Safety Partnership regarding gambling related crime.
[Annual Statistics from the National Gambling Treatment Service](#)