



Licensing Committee

10th November 2021

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| Title | Revised Gambling Statement of Principles (Policy) |
| Report of | Director of Assurance |
| Wards | All |
| Status | Public |
| Urgent | No |
| Key | No |
| Enclosures | Appendix 1 – Draft Policy Appendix 2 – Consultation Responses |
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Summary

This report relates to the outcome of the recent consultation in relation to a revised Gambling Act Statement of Principles (Policy) which, if approved by the committee, will come into effect on Friday 28th January 2022

Officer Recommendations

The Committee is requested to:

1. Approve the proposed policy in Appendix 1; and
2. Recommend that this policy be adopted at the next full meeting of the Council.

1 WHY THIS REPORT IS NEEDED

- 1.1 The Gambling Act 2005 (the “Act”) places a duty on the Council as the ‘Licensing Authority’ for gambling premises in the Borough. It requires that a licensing authority should aim to permit the use of premises for gambling in so far as it thinks it is:
- a) in accordance with any relevant code of practice or any guidance from the Gambling Commission;
 - b) reasonably consistent with the licensing objectives; and
 - c) in accordance with its gambling licensing policy.
- 1.2 The Council has a number of important regulatory functions in relation to gambling. These include licensing premises, regulating gaming and gaming machines in clubs, granting permits to what the Guidance refers to as ‘family entertainment centres’ for the use of certain lower stake gaming machines, regulating gaming and gaming machines on alcohol licensed premises, granting permits for prize gaming, and registering small society lotteries.
- 1.3 In accordance with the Act, the Council must prepare, consult on and publish a Statement of Principles which it proposes to apply when exercising relevant functions. In exercising their functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission.
- 1.4 The Act also requires that this statement of principles must be reviewed and published at least every 3 years. The policy was last reviewed in January 2019.
- 1.5 Where there are any proposed changes to the statement of principles, the Council is required under the Act to consult on any revisions.
- 1.6 The proposed policy (Which can be found in Appendix 1) is an update on the previous policy showing new demographic information and new document formatting.
- 1.7 A consultation was undertaken on whether to adopt the Council’s draft Gambling Statement of Principles. This took place between 12th August 2021 and concludes 24th September 2021. Information on this consultation can be found in paragraph 5.9.
- 1.8 One response has been received.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The local authority is required, under the Act, to consult prior to publishing a statement of principles or any subsequent revision to the statement of principles, in relation to the exercise of its functions under the Act.
- 2.2 This report confirms the outcome of the public consultation on the Council’s Gambling Act 2005 Statement of Principles policy (as amended 2021).

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 There are no alternative options. The London Borough of Barnet has a duty to prepare, consult and publish a statement of principles or any proposed changes to the same.

4 POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to recommend that the Policy be adopted at the next meeting of the full Council to come into effect in Friday 28th January 2022.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. It promotes delivering “quality services and striving to continually improve the standard of services”

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Administration and enforcement are carried out by the Commercial Premises Licensing team in Regional Enterprise, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.

- 5.2.2 In relation to the decisions made by the Licensing Authority there is always a risk of an appeal. However, making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.

- 5.2.3 There are no financial implications of the proposed action.

5.3 Legal and Constitutional References

- 5.3.1 Under the Gambling Act 2005 there are three statutory objectives to be met through licensing:

- (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. A good policy ensures that these objectives are promoted by the London Borough of Barnet.

- 5.3.2 Section 349 of the Gambling Act 2005 requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act, and the licensing authority is expected to review this from time to time (and amend it if necessary), ensuring that it is reviewed and published at least before the end of each successive three-year period.

- 5.3.3 Where there are any proposed changes to the statement of principles, section 349 of the Act also sets out who the Council should consult with:

- the chief officer of police for the authority's area, or
- 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 the Act.

5.3.4 Article 7 – Committees, Forums, Working Groups and Partnerships, of the Council's Constitution states that the Licensing Committee is responsible for, "all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees." As such, the approval of this policy is a non-executive function reserved to full Council as set out in the Council's Constitution.

5.3.5 There are no direct Human Rights Act or other implications anticipated.

5.4 Insight

5.4.1 Not relevant to this report.

5.5 Social Value

5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 It is prudent to monitor performance to ensure that the Gambling Licensing function is delivered efficiently and effectively.

5.6.2 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to gambling. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised. However, it must balance this with the need to uphold the licensing objectives.

5.7 Equalities and Diversity

5.7.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.7.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.7.3 In consideration of the section 149 duty, an equalities impact assessment has been completed and the conclusions are that there are no adverse or negative impacts on any of the protected groups.

5.7.4 This report is for information only and therefore unlikely to result in any equalities implications.

5.8 Corporate Parenting

5.8.1 There will be no impact on looked after children and care leavers.

5.9 Consultation and Engagement

- 5.9.1 The consultation document will be sent to the Police, trade associations for gambling businesses, and residents groups. It will also be sent to councillors, responsible authorities, gambling businesses in the borough, faith groups, voluntary organisations, community organisations working with children and young people and organisations working with problem gambling. The consultation will also be published on the Council's consultation portal on the Barnet online website.
- 5.9.2 The Statement of Principles was consulted upon with all relevant stakeholders for a period of 6 weeks. All replies have been taken into account and the Statement of Principles, revised as necessary, is put before the Committee for final approval at this meeting (10th November 2021). If approved, then the Statement of Principles will be put before the Full Council at the next scheduled meeting.

6 BACKGROUND PAPERS

- 6.1 None.

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 12th August 2021 and concluded on Friday 24th September 2021. The below responses were those that were received by all necessary parties.

| Consultee | Comments | Response |
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| Betting and Gaming Council (BGC) - representatives | Paragraph 10.3.3 should be redrafted to remove the sentence which suggests that a policy may be adopted regarding areas where gambling should not be located. Any such policy is likely to be unlawful and is certainly contrary to the s153 “aim to permit” principle detailed in paragraph 10.1.4. | This authority does not currently intend to impose a policy which will restrict gambling establishments, however, given that the Gambling Act is currently under review this gambling statement remains open to the possibility of change. Therefore, the reference has been changed to state “should a policy be lawfully decided upon” then this gambling statement is able to be amended. |
| Betting and Gaming Council (BGC) - representatives | Paragraph 10.4.2 should be redrafted so that it is clear that it is not the application that requires an explanation of how the proposals will not exacerbate any problems to individuals or ASB in the vicinity. This is a matter for the local area risk assessment in which an applicant will identify risks posed by the provision of the gambling facilities proposed and detail policies, procedures and control measures in place to mitigate the risk as, indeed, is recognised in the following paragraph. | This paragraph has been amended to: “Where paragraph 10.4.1 applies this Authority will expect applicants to fully explain in their local area risk assessment, which is attached to their application, how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally” |
| Betting and Gaming Council (BGC) - representatives | The list of bullet points contained within paragraph 10.5.6 should also be redrafted to delete matters that are not relevant to any assessment of risk to the licensing objectives. SR Code Provisions 10.1.1 and 10.2.2 provide for “relevant matters identified in the licensing authority’s statement of licensing policy” to be taken into | This authority upholds that the matters referred to in this paragraph are relevant to the licensing objectives. If on an individual basis an operator believes that in their case a particular matter is not relevant, they should indicate |

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| | <p>account. The list of bullet points detailing examples of matters that the licensing authority expects to be considered needs therefore only to reflect matters that are relevant to the licensing objectives. For example, issues relating to youths participating in anti-social behaviour, drug dealing, graffiti/tagging or underage drinking have no bearing whatsoever on any assessment of risk to the licensing objectives posed by the provision of gambling facilities. Similarly, “gaming trends that may mirror days for financial payments such as pay days or benefit payments” can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct and references to any issue that is not relevant to the licensing objectives should be removed</p> | <p>this in their Local Risk Assessment. Also, these are provided as examples for applicants rather than an authoritative list. Each application should be completed based on its own local assessment.</p> |
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