

	REPORT TO CABINET TO BE HELD ON 16 OCTOBER 2018	
	Key Decision	YES
	Forward Plan Ref No	
Corporate Priority: Meets all Corporate Priorities	Cabinet Portfolio Holder	Cllr Bill Chatt

REPORT OF: THE DIRECTOR (LD) – 18/220

WARDS AFFECTED: “All”

SUBJECT: REVIEW OF COUNCIL’S STATEMENT OF LICENSING POLICY – GAMBLING ACT 2005

RECOMMENDATION(S):

Cabinet are asked to:

- a) Note the analysis of the results of the consultation on the Statement of Licensing Policy including comments received (attached at **Appendix 1**)
- b) Approve the amended Statement of Licensing Policy (attached at **Appendix 2**) post consultation; and
- c) Recommend its approval by Council for adoption.

REASON FOR RECOMMENDATION (S):

In accordance with the Gambling Act 2005 the Licensing Authority is required to publish a statement of policy every successive three year period from the first appointed day which was 31 January 2007. The Policy is now due to be revised to cover the next successive 3 year period: January 2019 to January 2022.

HIGHLIGHTED RISKS:

Failure to update the revised Gambling Policy will result in an outdated Policy that does not reflect changes to relevant legislation, associated guidance and local circumstances.

1. INTRODUCTION

- 1.1 Section 349 of the Gambling Act 2005 (“the Act”) requires all Licensing Authorities to prepare and publish a Statement of Principles in the form of the

Gambling Licensing Policy (“the Policy”) that it proposes to apply in exercising its functions under the Act during the three year period to which the Policy applies.

- 1.2 Cabinet at its meeting of 17 April 2018 agreed a public consultation on the revised Policy to cover the next three-year period: January 2019 to January 2022. The consultation took place between 1 May and 31 July 2018.
- 1.3 Members are asked to note the comments and responses attached to this report and to approve the amended draft Policy at **Appendix 2**.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 This report supports all four of the Council’s corporate objectives.

3. BACKGROUND AND ISSUES

- 3.1 The Act states that before each successive period of three years a Licensing Authority must prepare a statement of the principles that it proposes to apply in exercising its functions under this Act during that period and to publish a statement in accordance with Regulations.
- 3.2 In 2006 an Order came into force setting the First Appointed Day as 31 January 2007 with separate Regulations setting out the requirements as to the form and publication of a statement or a revision of that statement.
- 3.3 Section 349(2) of the Act states that a Licensing Authority shall review its statement policy from time to time and if it thinks it necessary in the light of that review, revise the statement and publish the revision before giving it effect.

4. CONSULTATION

- 4.1 The Act requires the Council to keep its Policy under review and make revisions, as it considers appropriate. If it makes revisions, the Council must consult on any changes before determining and publishing an amended Policy.
- 4.2 A three-month consultation period commenced on 1 May and concluded on 31 July 2018 with the following groups:
 - North Yorkshire Police
 - Representatives of persons in gambling businesses in the area
 - Representatives of persons who are likely to be affected by the Policy
 - Residents groups
 - Community Associations
 - Faith Groups
 - Traders Associations
 - Neighbouring Licensing Authorities
 - Relevant Council Departments

- Responsible Authorities
- Ward Councillors
- Parish Councillors
- Members of the public

- 4.3 A total of twenty one responses were received to the consultation, twenty via the online survey and one additional response in the form of a letter from the Association of British Bookmakers.
- 4.4 Although responses indicate a general support for the Policy, a small number of matters were highlighted which has resulted in minor amendments to the Policy document.
- 4.5 The amended draft Policy at **Appendix 2** was considered by the Licensing Committee at its meeting of 10 September 2018 who recommended that Cabinet approve it for adoption at Full Council.

5. ASSESSMENT

- 5.1 It is important that the Council takes into account consultees' comments as part of the consultation process. Members will note that:
- 100% of consultees agreed that the Policy is now more accessible and easier to understand.
 - 100% of consultees agreed that the revised introduction together with clarification of who is consulted on the Policy was beneficial.
 - 100% of consultees agreed with the new sections setting out the licensing authority's broad principles and functions, together with the matters considered in developing the Policy.
 - 95% of consultees were in favour of Officers carrying out an assessment in relation to a Local Area Profile.
 - 100% of consultees agreed with the new section of the Policy setting out the licensing authority's powers to restrict the number of betting machines based on factors such as size or premises, counter positions and staff supervision.
 - 80% of consultees agreed that Officers should be able to determine applications for more than 2 gaming machines in alcohol licensed premises whilst still leaving the option to refer to the Licensing Sub-Committee if considered appropriate.
 - 95% of consultees agreed with the revised Statement of Principles for unlicensed family entertainment centres.
- 5.2 Officers have carefully considered the limited number of comments received via the online survey and do not believe they require the Policy document to be amended. Responses have been provided in respect of all comments and certain areas clarified where necessary.
- 5.3 The response received from Gosschalks Solicitors on behalf of the Association of British Bookmakers suggests two amendments in relation to

paragraphs 1.12 (Licensing Objectives) and 3.28 (Conditions). These suggested amendments are relatively minor and have been accepted into the Policy as outlined below.

- 5.4 Paragraph 1.12 has been amended to acknowledge that the licensing authority is required to have regard to the licensing objectives, rather than promote them:

1.12 This Policy has been written with regard to the three licensing objectives set out in the 2005 Act, which are:

- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime*
- b) Ensuring that gambling is conducted in a fair and open way; and*
- c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.*

- 5.5 Paragraph 3.28 has been amended to acknowledge that the Secretary of State has set mandatory and default conditions necessary for the general good conduct of gambling premises. In addition the paragraph clarifies that additional conditions should only be attached where there are regulatory concerns of an exceptional nature:

3.28 It is acknowledged that certain categories of premises are already subject to Mandatory and Default conditions and it is therefore unlikely that additional conditions will need to be imposed in relation to these matters. Where the licensing authority is minded to impose conditions due to regulatory concerns of an exceptional nature, such additional conditions must be proportionate, relate to the licensing objectives and be:

- a) Relevant to the need to make the proposed building suitable as a gambling facility*
- b) Directly related to the premises and the type of licence applied for*
- c) Fairly and reasonably related to the scale and type of premises; and*
- d) Reasonable in all other respects.*

- 5.6 Cabinet are now asked to consider the revised draft Policy and approve it for submission to Council for final adoption and implementation.

6. IMPLICATIONS

Policy

- 6.1 This report does recommend changes to the Policy following consultation.

Legal

- 6.2 It is a statutory requirement for the Council to review this Policy every successive three year period.

Financial Implications

- 6.3 The costs involved in undertaking the review have been met from existing budgets.

Equality and Diversity

- 6.4 This report and Policy has been prepared in accordance with the Council's Corporate Equalities Scheme.

Crime and Disorder

- 6.5 Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

7. ACTION PLAN

- 7.1 If Cabinet are minded to approve the revised Policy a report will be submitted to Full Council on 5 November 2018 requesting adoption. Once the Policy has been adopted, Officers will publish it in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 to come into effect early 2019.



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Background Papers:

Current Gambling Policy

Gambling Act 2005

Gambling Commission Guidance to Licensing Authorities

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	20/02/2018	Legal challenge or appeal against Policy if not revised.	Legal costs against the Council.	Timely revision of the Policy following public and statutory consultation	B2	A1	Jonathan Bramley	None

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
			A	B	C	D
		Likelihood				

Likelihood:

- A = Very Low
- B = Not Likely
- C = Likely
- D = Very Likely
- E = Almost Certain**

Impact

- 1 = Low
- 2 = Minor
- 3 = Medium
- 4 = Major
- 5 = Disaster**