



CABINET

18 September 2019

Subject Heading:

Statement of Gambling Policy 2019-2022.
To Consult on Statutory Revision of this Policy.

Cabinet Member:

Councillor Persaud

SLT Lead:

Sue Harper Interim Director of Neighbourhoods

Report Author and contact details:

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Policy context:

The Gambling Act 2005 requires this Licensing Authority to consult on and publish a Statement of Gambling Policy. This document must be reviewed every 3 years.

Financial summary:

There is a cost to running the statutory consultation. This will be met within existing budget.

Is this a Key Decision?

Significant effect on two or more Wards

When should this matter be reviewed?

November 2019

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Communities making Havering

[x]

Places making Havering

[x]

Connections making Havering

[x]

SUMMARY

1.1 This report presents a revised Statement of Gambling Policy 2019 to 2022, as required under s349 of the Gambling Act 2005, and a recommendation to proceed with a statutory consultation.

1.2 The Policy Objectives include:

- Prevent gambling from being a source of crime and 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.

1.3 The key recommendation in the report is to seek agreement to conduct a statutory consultation exercise on the Statement of Gambling Policy 2019 to 2022.

RECOMMENDATIONS

2.1 Cabinet is asked to:

- Authorise commencement of a consultation on adopting the Statement of Gambling Policy 2019 to 2022.

REPORT DETAIL

3.1 The Statement of Gambling Policy is the primary document for setting out the Council's local approach to gambling regulation. The existing policy has been reviewed. The proposed changes to the 2016-19 policy are shown via tracked changes to assist the consultation process. A copy of the Draft Statement of Gambling Policy 2019-2022 is included in Appendix 1.

3.2 The Gambling Commission states in the introduction to its Guidance to Licensing Authorities:

'The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions. It does not seek to impose a 'one size fits all' model across all licensing authorities. We recognise that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation.

This Guidance does not, therefore, attempt to fetter the discretion that licensing authorities have under the Act and it is not intended to replace their judgement in individual cases. Moreover, this Guidance cannot anticipate every set of circumstances that may arise and, as long as it has been understood and taken into account, licensing authorities may depart from it where they consider it would be right to do so. There should, however, be strong reasons for departing from this Guidance and these need to be clearly expressed and explained if a licensing authority is to avoid judicial review or challenge on appeal for failing to take this Guidance into account.'

3.3 The Statement of Gambling Policy 2019-2022 (draft) follows the principles laid down in the Gambling Commission's Guidance to Licensing Authorities. The Act requires the Authority to carry out its various licensing functions to be reasonably consistent with the following three licensing objectives:

- Preventing gambling from being a source of crime and 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.

3.4 As required by Guidance issued by the Gambling Commission, the Council, in carrying out its licensing functions under the Act will aim to permit the use of premises for gambling as long as it is considered to be:

- In accordance with any relevant code of practice issued by the Gambling Commission,
- in accordance with any relevant guidance issued by the Commission,
- reasonably consistent with the licensing objectives and
- in accordance with this Policy Statement published under section 349 of the Act.

3.5 Nothing in the Statement of Gambling Policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in the draft Statement of Gambling Policy will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so.

3.6 There is no statutory time period for the consultation process. Based on advice from the Gambling Commission it is proposed that the draft Statement of Gambling Policy 2019-2022 will be subject to an 8-week consultation period.

3.7 All comments will be carefully considered and appropriate amendments made. The Statement of Gambling Policy will then go to Cabinet and then Full Council for final approval, which is a requirement of the legislation.

REASONS AND OPTIONS

4. Reasons for the decision:

4.1 It is a legal requirement under s349 of the Gambling Act 2005 for each licensing authority to prepare a statement of principles that they propose to apply when exercising their licensing function. The Authority is required to review the policy at least every 3 years. The current policy has expired and we are legally required to publish a new policy for 2019 to 2022.

4.2 Before the Statement of Gambling Policy can be adopted the Gambling Act 2005 requires the licensing authority to consult with:

- The Chief Officer of 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;
- 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. Other options considered:

5.1 number of other options were considered:

- **Do nothing** - Not to update the current Statement of Gambling Policy. This was rejected, as the authority is required by law to have a Statement of Gambling policy under the Gambling Act 2005.
- **Adopt and Publish a revised Statement of Gambling Policy** - To complete a full review of the current policy, produce a revised document for consultation; and then adopt and publish the Statement of Gambling Policy 2019-2022.

IMPLICATIONS AND RISKS

6. Financial implications and risks:

6.1 In respect to the consultation for revised Statement of Gambling Policy 2019-2022 the current Fees and Charges will continue to be in place. They will be reviewed in line with any statutory and financial requirements.

6.2 The Fees and Charges will be set to cover the costs of providing the service i.e. licensing gambling premises.

6.3 The public consultation will be met from existing budgets.

7. Legal implications and risks:

7.1 Section 349 of the Gambling Act 2005 imposes a statutory requirement on the Council (as the Licensing Authority) to prepare and publish a 'Statement of Principles' (which is in effect the Council's Statement of Gambling Policy as referred to in this report) once every three years. Following public consultation, any amendments to the Policy are required to be considered at Cabinet and then approved by full Council. Section 349 (2) of the Gambling Act 2005 allows the Licensing Authority to review its Statement/Policy from time to time. The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 sets out the legal requirement and procedure for drafting and preparing the Statement/Policy and any revisions to this.

7.2 This consultation will fulfil the Council's statutory duty. Once responses are received these will have to be carefully considered before any decision is taken.

8. Human Resources implications and risks:

8.1 There are no HR implications at this time as this report only relates to a consultation exercise. Further HR implications will be considered as part of any report on a decision to extend licensing if proposed.

9. Equalities implications and risks:

9.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

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Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

9.2 The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

9.3 An equalities assessment has been carried out; there is no significant impact on any of the protected characteristics. The assessment is attached as Appendix 2.

Appendices

1. Statement of Gambling Policy 2019-2022 DRAFT
2. Equality and Health Impact Assessment

BACKGROUND PAPERS

None