

Licensing Committee 21 May 2019

Lambeth Statement of Gambling Principles 2019-2022 (new 'Gambling Policy')

Wards: All

Report authorised by: Strategic Director for Resident Services: Bayo Dosunmu

Portfolio: Cabinet Member for Housing: Cllr Paul Gadsby

Contact for enquiries: Luke Parker, Intelligence and Improvement Manager, 020 7926 4141, Lparker2@lambeth.gov.uk; Bina Patel, Licensing Manager, 020 7926 4103, bpatel@lambeth.gov.uk

Executive summary

The Council is required to publish a statement of gambling principles every three years. The purpose of the statement of gambling principles is to define how the Council's responsibilities under the Gambling Act 2005 are going to be exercised and administered. Lambeth's existing Statement of Gambling Principles (2016-2019) expires at the end of June 2019.

Consultation with the Gambling Commission and core stakeholders; benchmarking with other boroughs and reference to Gambling Commission guidance recommending the inclusion of local area profiles has resulted in the development and preparation of a consultation draft document. Following Licensing Committee consent, a four-week online public consultation process will take place on the proposed draft, in line with the requirements of the Gambling Act.

Results of the public consultation will be assessed and, where appropriate, any relevant suggestions, amendments and changes will be incorporated into the updated draft which will then be submitted to Cabinet at the meeting scheduled for 22nd July 2019 with a recommendation that the same be adopted at Full Council at a meeting expected to take place in either August or September 2019.

Finance summary

The review of the current Statement of Gambling Principles and formulation of the new document for 2019-2022 has been funded from existing budgets, and there are no further financial implications arising from the recommendations of this report.

Recommendations

1. That the Committee note the contents of this report.
2. That the Committee agrees to the proposed updates to the existing Statement of Gambling Principles, namely:
 - The inclusion of new local area profiles for the borough
 - The inclusion of a new requirement for proposed new gambling premises to take these into account when undertaking risk assessments
3. That the Committee authorises officers to undertake a four-week online public consultation on the draft Statement of Gambling Principles, to take place from 23rd May 2019 to 20th June 2019
4. That the Committee consents to the specific recommendation under S166 of the Act which enables the Council, as the licensing authority, to issue a resolution not to issue casino licences for the duration of the document, and to consult on this proposal via the public consultation exercise
5. That the Committee agrees to any amendments resulting from the public consultation being incorporated into a final draft Statement of Gambling Principles 2019-2022 which will then be submitted to Cabinet and then Full Council for adoption.

1. CONTEXT

- 1.1. The Gambling Act 2005 ('The Act') introduced a new licensing regime for gaming and betting administered through a combination of the Gambling Commission and local licensing authorities. The London Borough of Lambeth is a licensing authority for the purposes of this Act.
- 1.2. Under the Act, Licensing authorities are required to review and publish, every three years, a statement of the principles which they propose to apply when exercising their licensing functions. During the review, Lambeth has a responsibility to ensure that the policy statement balances the need for a degree of certainty on the part of gambling businesses with the need to remain responsive to emerging risks.
- 1.3. This authority's Gambling Act 2005 Statement of Principles ('Gambling Policy') was first published in January 2007. It has been subject to several reviews and amendments to reflect changes to policy and guidance over the years. The current version of the statement of principles (2016-2019) was approved by Full Council in May 2019 and is now due for review and renewal.
- 1.4. The existence of a clear and agreed policy statement aims to provide greater scope for licensing authorities to work in partnership with local businesses, communities, and responsible authorities to identify and mitigate local risks to the licensing objectives.
- 1.5. The Act regulates the following sectors:
 - Arcades
 - Betting
 - Bingo
 - Casinos
 - Gambling software
 - Gaming machines
 - Lotteries
 - Remote gambling
- 1.6. Prospective licensing operators and individuals who wish to be involved in carrying out the above activities should approach the Gambling Commission in the first instance for:
 - An operating licence
 - A personal management licence
 - A personal functional licence

1.7. They must do this before approaching the Council, acting as the licensing authority under the Act, whose functions include

- Issuing gambling operators with premises licenses
- Issuing gambling operators with permits (which allow low stakes gambling in venues which are not primarily for gambling, such as pubs and clubs)

together with the other local authority functions of:

- Registering societies – allowing them to hold small lotteries
- Compliance and enforcement of the Gambling Act 2005 locally

This approach differs, for example, from the regime under the Licensing Act.

1.8. In carrying out their functions under the Gambling Act 2005, particularly with regard to premises licenses and temporary use notices, all licensing authorities must aim to permit the use of premises for gambling (under Section 153 of the Act) in so far as they think it:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with the guidance for licensing authorities issued by the Gambling Commission
- Reasonably consistent with the licensing objectives
- In accordance with the authority's statement of licensing principles

1.9. The Gambling Act 2005 sets out three licensing objectives which underpin the Act and all applications must be determined to ensure that the objectives are upheld. These objectives are:

1. To prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. to ensure gambling is conducted in a fair and open way; and
3. to protect children and other vulnerable persons from being harmed or exploited by gambling

- 1.10. Fixed odds betting terminals (FOBT), and associated minimum stakes are not set by local authorities as minimum stakes per gaming machine type are set by central government.

2. SUMMARY OF CHANGES TO THE EXISTING POLICY

- 2.1. The revised policy includes a number of important changes that the Gambling Commission expects licensing authorities to include. These changes are summarised below.

New Requirement for Risk Assessments to be undertaken by applicants

- 2.2. Premises-based gambling operators are now required (since April 2016) by the Gambling Commission to undertake a local gambling risk assessment of their premises and to assess the potential impact that the premises and its operation may have on the licensing objectives. All prospective new gambling operators must consider local area information provided by the Licensing Authority via their Statement of Licensing Principles for Gambling (Licensing Policy).
- 2.3. Lambeth has produced a comprehensive local area profile which takes into account a range of factors and provides a reference point regarding risk assessments.
- 2.4. Lambeth encourages a proactive approach to identifying and mitigating risk from the outset as it considers that this is likely to result in a reduction in the need for future formal compliance and enforcement action.

Local Area Profile (LAP)

- 2.5. The Local Area Profile (LAP) are a new inclusion and identify geographical locations of gambling premises within the borough and local information which is reflective of local data, local issues and the expectations the Licensing authority will have of existing and new operators. The aim of the LAP is to set out the information that gambling operators need to consider for new applications or when updating their risk assessments for existing premises.
- 2.6. There is no mandatory requirement to have a local area profile, however, the Gambling Commission has highlighted a number of benefits of LAPS which include:
 - Improving Lambeth's understanding of the community and the local risk profile;

- Improved clarity for operators on relevant factors in licensing authority decision making. This will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application;
- Enables the licensing authority to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge; and
- Encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

- 2.7. The Lambeth Local Area Profile has created a risk model by combining identified risk factors to produce an overall risk value for each Lower Super Output Area (LSOA) in Lambeth. The risk model assesses data about; local crime levels, employment, income levels, health issues, homelessness and other risks detailed within the Lambeth LAP.
- 2.8. This has enabled Lambeth to identify the most vulnerable locations in Lambeth to gambling related harm, by percentile. Using this, the authority has established Gambling Vulnerability Zones in the top 20% most vulnerable LSOA's in Lambeth.
- 2.9. The main objective for the LAP is to clearly set out the Council's approach to risk for both new and existing operators to use when applying for a licence or varying an existing one.

Gambling Vulnerability Zones

- 2.10. The LAP has identified 36 LSOA's (out of a total of 178) which are the most vulnerable 20% in terms of gambling related harm. These areas have been represented in the LAP in three areas; North Lambeth, Central Lambeth and South Lambeth. LSOA's which share a border have been merged to form one larger area, otherwise the area remains as the LSOA boundary. These have been called Lambeth's Gambling vulnerability zones.
- 2.11. Gambling vulnerability zones have been identified purely based on risk and have been created in the top 20% most vulnerable LSOA's. The purpose of the creation of these zones is to highlight, to current and future premises operators, the areas in Lambeth where gambling vulnerability is most acute.
- 2.12. The Licensing Authority will assess the risks presented and determine whether the steps provided by the applicants are suitable to mitigate

the risks of harm within the area. Each application will be determined on its own merits.

Premises Clusters

- 2.13. The Licensing Service seeks to identify where there are three or more betting shops within 400m of each other within the borough.
- 2.14. The parameters that determine the size of the clusters is developed from research conducted by Geofutures (now gambleaware) in 2016. This research concluded that higher problem gambling risk prevalence rates exist where there are high concentrations of Gambling premises in the same locality. Notably, this finding was most prominent in areas where three or more premises were clustered within 400 meters of one another.
- 2.15. The LAP has identified seven clusters of gambling premises (three or more within 400m of each other) within Lambeth (see Appendix A). These are:
 1. South Bank and Waterloo
 2. Kennington
 3. Clapham High Street
 4. Central Brixton
 5. West Norwood
 6. Streatham Hill
 7. St. Leonard's
- 2.16. The purpose of the creation of these clusters is to highlight, to current and future premises operators, the areas in Lambeth where three or more gambling premises licences are based, which the research identifies is linked to higher rates of problem gambling. This will enable premises within these areas to have a useful reference tool with which to mitigate risks in the local area, manage their gambling operation, design the layout of the premises and put in place appropriate control measures.

3. FINANCE

- 3.1. Costs associated with the review of the statement of principles and consultation process will be funded from existing budgets.
- 3.2. The review of the Statement of Gambling Principles 2016-2019 and production of the new Statement of Gambling Principles 2019-2022 are funded from existing budgets, and there are no further financial implications arising from the recommendations of this report.

4. LEGAL AND DEMOCRACY

- 4.1. Section 349 of the Gambling Act 2005 (the Act) requires the Council to prepare and publish triennially a statement of the principles it proposes to apply in exercising its function under the Act (a document commonly known as a Gambling Policy or Statement of Gambling Principles – hereafter referred to as the Policy). A licensing authority may review and revise their Gambling Policy within each three-year cycle.
- 4.2. Prior to publishing its Gambling Policy, the Council must undertake the statutory consultation as provided by section 349(3) of the Act and any Regulations made under it. This requires that the Council consult with: the chief officer of police; one or more persons who represent the interests of gambling businesses in the borough and one or more persons who represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Gambling Act.
- 4.3. Regulations 4 to 6 of the Gambling Act 2005 (Licensing Authority Policy Statement) (England & Wales) Regulations 2006 set out the requirements for the content and form of the Policy and the procedure to be followed in preparing and then publishing it. In accordance with these Regulations a minimum of 4 weeks is required between publication and the Gambling Policy coming into effect.
- 4.4. Paragraph 5 refers to the consultation that is to be undertaken for the purposes of this report. The following principles of consultation were set out in a recent High Court case: First, a consultation had to be commenced at a time when proposals were still at a formative stage. Second, those consulted had to be provided with accurate and sufficient information and reasons for any proposal to permit intelligent consideration; with adequate time given for the consulting party to respond and for those responses to be considered. Third, the product of consultation must be conscientiously taken into account. Overall, the process of consultation had to be effective and looked at as a whole it had to be fair. Fairness might require consultation not only upon the preferred option, but also upon discarded or alternative ones.
- 4.5. Under the Council's constitution (page 32, Part 2 –Section 1), the Licensing Committee's remit includes the power: "To exercise the functions, powers and duties of the Council in relation to all licensing matters, as required by statute". Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council's Gambling Policy is required to be part of the Council's policy framework and adoption of that Policy falls to be made by full Council.
- 4.6. Section 149 of the Equality Act 2010 sets out the public sector equality duty, i.e. that all public bodies are under an obligation to have

'due regard' to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.

- 4.7. Section 149 (1) (b) of the Act states that: a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Part of the duty to have "due regard" where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim.
- 4.8. The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.

5. CONSULTATION AND CO-PRODUCTION

- 5.1. A stakeholder engagement exercise was completed in February 2019, which included; the Lambeth Forum Network, Cllr Seedat's and Cllr Dickson's Cabinet Member Briefing, Environment Director's management meeting, Lambeth Management Board and Public Health to explain what our plans and project timescales were. This engagement exercise preceded any policy changes that have subsequently been made.
- 5.2. Since the production of the LAP, policy changes have been made within our 2019-2022 Gambling Statement of Principles to introduce mandatory gambling operator risk assessments, gambling vulnerability zones and premises clusters.
- 5.3. Section 349 of the Gambling Act 2005 specifies those persons and groups with whom we must consult for the purposes of this report.
- 5.4. If the Licensing Committee approves the consultation on the proposed statement of principles, we will consult with all statutory consultees, namely:
 - The chief officer of police

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling in the authority's area, namely Public Heath; and including the following responsible authorities identified under the Act: the Gambling Commission, HM Revenue and Customs, the London Fire Brigade, and Lambeth's Planning, Neighbourhood Enforcement, Community Safety and Children's Services
- 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, including:
 - The individuals and organisations who hold Premises Licences issued by the authority under the Act
 - The organisations who have applied for or hold gaming machine permits for multiple or high-profile premises within the borough
 - Representative bodies within the gambling and leisure industry
 - All elected ward councillors and members of parliament - by offering an all member session during the first few weeks of the consultation.

5.5. In addition to the above we will:

- Host an online questionnaire on the council's website
- Use social media to inform the public about this consultation and direct them to the questionnaire;
- Write an article for the Love Lambeth blog to advertise the policy changes and consultation exercise;
- Send out a stock email to all residents and businesses who have asked to be notified of future consultations; and
- Produce a digital briefing to be shared at stakeholder engagement meetings.

- 5.6. We will then analyse the comments received and prepare any changes considered appropriate to the statement of principles for final approval. Any changes will be presented in a report to the Licensing Committee in July 2019. This will then be presented at Cabinet on 22nd July 2019. If the policy is recommended for adoption at this Cabinet meeting, the statement of principles will be taken to Full Council in Autumn 2019 for official adoption.

6. RISK MANAGEMENT

- 6.1. It is a legal requirement to review the policy at least every three years. This new version of the published policy will mean that the next review is necessary by the end of June 2022, although this can be brought forward should circumstances change.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1. An equalities impact assessment (EIA) is currently being drafted now that the proposed policy changes have been made. This will be a live working document throughout the course of the consultation, so that Lambeth can be flexible around responses from residents and businesses. The outcome of this assessment will be available for review before any final policy decisions are made.
- 7.2. It is anticipated that the draft policy will not adversely affect the holders of existing premises licences, those applying to hold licenses, Responsible Authorities under the Gambling Act 2005, Council officers and potentially residents of the borough

8. COMMUNITY SAFETY

- 8.1. One of the objectives in the Gambling Act is to prevent gambling from being a source of crime, being associated with crime or being used to support crime.

9. ORGANISATIONAL IMPLICATIONS

- 9.1. None

10. TIMETABLE FOR IMPLEMENTATION

Action/Meeting	Key Dates
Deadline for documents completion	9 th May 2019
Management Board	14 th May 2019
Informal Cabinet	16 th May 2019
Licensing Sub Committee hearing for approval to consult	21 st May 2019
Formal public consultation exercise via Lambeth website	23 rd May to 20 th June 2019
Consultation responses consideration, finalisation of revised draft policy and legal clearance	20 th June to 5 th July 2019
Environment Director Management Team	27 th June 2019
Strategic Director Management Team	TBC
Management Board	9 th July
Report back to Licensing Committee requesting committee to consider the outcome of the public consultation exercise and agree the proposed draft policy revisions; and make recommendations for adoption of a final Statement of Licensing Policy by Cabinet and Full Council	12 th July 2019
Informal Cabinet	TBC
Report to Cabinet setting out public consultation results and proposing new draft Statement of Gambling Principles 2019-2022 (to be attached to report) for recommendation	22 nd July 2019
Full Council for adoption of new/revised policy	TBC
2019-2022 Gambling Policy takes effect	4 weeks after adoption by Full Council

Audit trail

Consultation				
<i>This is important as it shows that consultation has been undertaken in the preparation of the report and provides a quick reference point for specific comments. It is important that officers remember to liaise with relevant councillors such as the Cabinet Member and the relevant Ward Members.</i>				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
Bayo Dosunmu	Strategic Director: Resident Services	09/05/2019	xxx	x
Raj Mistry	Director of Environment	09/05/2019	09/05/2019	x
Doug Perry	Assistant Director - Environment	09/05/2019	xxx	x
Calvin McLean	Head of Public Protection and Regulatory Services	09/05/2019	xxx	Throughout
Nicole Terrieux	Consumer Protection Manager	08.05.19	08.05.19	Throughout
Jean-Marc Moccarme	Legal Services	07.05.19	08.05.19	Throughout
Andrew Ramsden	Finance	09/05/2019	xxx	xxx
Naz Choudhury	Democratic Services	09.05.19	xxx	-
Councillor Paul Gadsby	Cabinet Member	09/05/2019	xxx	Throughout

Report history

Original discussion with Cabinet Member	03/05/19
Report deadline	09/05/19
Date final report sent	09/05/19
Report number	n/a
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	n/a
Key decision reasons	n/a
Background information MANDATORY Insert headings for a few main public documents you have used or referenced to write this report. This is a legal requirement. For	Gambling Act 2005 http://www.legislation.gov.uk/all?title=Gambling%20Act%202005

<p>Cabinet reports, insert hyperlinks. Do not list private documents (such as OB reports). Detailed procurement information will need to be provided in an internal procurement report but will not be appended to this report (and the public info. will be a background document).</p>	
<p>Appendices If (in rare circumstances) appendices are essential to the understanding of the report, list titles here. Ensure that appendices have proper titles.</p>	<p>Appendix A: Lambeth Local Area Profile Appendix B: Draft Statement of Gambling Principles 2019-2022 (version for public consultation) Appendix C: Summary of consultation questions</p>