



# Doncaster Council

## Report

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Date: 22nd November, 2018

To the Chair and Members of the Council

### Statement of Licensing Policy 2019 – Gambling Act 2005

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr C McGuinness	All	Yes

#### EXECUTIVE SUMMARY

1. To request that the members of the Council consider the adoption of the Statement of Licensing Policy 2019 - Gambling Act 2005 following its triennial review. For information, the route and timetable for adoption is attached as Appendix A.

#### RECOMMENDATIONS

2. It is recommended that the Council approve the reviewed Statement of Policy 2019 - Gambling Act 2005 and, following consideration of the responses received during the consultation and the resolutions by the Licensing Committee and Cabinet, 17th October 2018 and 6<sup>th</sup> November 2018 respectively, resolve that the Policy be adopted to take effect from 31st January 2019.

#### WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Doncaster Council is required by the Gambling Act 2005 to produce a Statement of Licensing Policy and to review its Policy triennially. This is the Statement of Policy produced by Doncaster Council under the Gambling Act 2005, which will set out the basis for all relevant licensing decisions to be taken by the Authority over the next three years.

#### BACKGROUND

4. The Licensing Authority is required, under the Gambling Act 2005 (The Act), to produce a Statement of Licensing Policy and to review the Policy at least every 3 years. The reviewed Policy must be effective by the 31<sup>st</sup> January 2019. There are three licensing objectives set out in the Act and these must be addressed within the Authority's Statement of Licensing Policy, namely:

- 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.
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
5. The Policy sets out, under these three objectives, the steps that need to be taken by applicants to address these issues. It also addresses how the Licensing Committee will conduct hearings for applications that cannot be resolved. The delegation of work to the Licensing Committee is prescribed within the Gambling Act and members of that Committee and any Sub Committee will have to have a detailed knowledge of the Policy and its implications for applicants. Decisions of the relevant committees must state how decisions have been made and how the relevant parts of the Policy have been used to make that decision.
  6. This is the fifth Statement of Policy produced by Doncaster Council under the Gambling Act 2005, which will set out the basis for all licensing decisions to be taken by the Authority over the next three years. The statement has been produced following public consultation including those bodies and persons set out in section 1.10 of the Policy document.
  7. The Gambling Act 2005 implemented a comprehensive structure of gambling regulation, which modernised previous gambling regulation and was designed to face the challenges of today and the future.
  8. The Policy creates a regime of firm but fair regulation, which encourages residents and visitors to enjoy gambling and recognises the contribution of this sector to the economic development of the Borough. It also takes account of the Council's significant duty to protect children, young people and the vulnerable and to reduce the potential risks that gambling can bring.
  9. The Council, in its role of licensing premises for gambling, recognises the importance of involving all residents and stakeholders in creating and enforcing this Statement of Policy and will seek to balance all the different aspirations and needs of businesses, local residents and the many visitors to the Borough.
  10. We will continue to encourage the development and use of a Local Area Profile of the Borough in this Policy. We hope that this will bring a clearer understanding of local issues. Unlike alcohol control, where some of the harms are readily apparent, for example anti-social behaviour, gambling harms are usually less visible and insidious in nature. Problem gambling can have devastating impacts on the individual, their family and their relationships with others. These impacts are not confined to debt but also include detrimental effects on an individual's health.
  11. We expect operators of gambling premises to have regard to the local area when undertaking their own risk assessment on their premises and when they make licence applications.

12. Given the range of comorbidities associated with addictions it is likely that some of those presenting with one specific condition may be experiencing gambling related harm as well, for example those with a mental health issue or an addictive behaviour. A notable addition, therefore, to this version of the Policy is that the Licensing Authority, in its capacity as a responsible authority under the Gambling Act 2005 (The Act), will actively seek the views of the Director of Public Health on all applications that the Licensing Authority are required to be notified of. Where applicable, these views will be used to make informed decisions regarding any representation the Licensing Authority may be minded to make.
13. Furthermore, whilst the Act makes it clear that children are vulnerable it also refers to 'other vulnerable persons' and there is an expectation that steps will be taken to prevent them from being harmed or exploited by gambling. The Act does not define 'other vulnerable persons' however, following feedback from the Director of Public Health, this Policy now includes details of which persons/groups the Council considers that 'vulnerable person' may include.
14. With limited exceptions, the existing law, by way of mandatory licence conditions, does not permit access by children and young persons under 18 to those gambling premises that are considered to be adult only environments. Where access to premises by children and young persons is prohibited this prohibition includes situations where they are accompanied by an adult. For information, the premises to which persons under the age of 18 may not be admitted are summarised in Appendix B.
15. This Policy will be reviewed and revised by the Council as and when required.
16. The Draft Policy, with revisions that have arisen out of the consultation, is attached as Appendix D.

### **OPTIONS CONSIDERED**

17. The Policy has been reviewed and updated to ensure it is relevant to Doncaster in 2019 going forward and to take account of the latest Guidance to Local Authorities produced by the Gambling Commission. If the Policy was to remain in its current form it would be outdated.
18. The alterations have arisen out of the review process and consultation albeit they are largely driven by the Licensing Authority seeking to ensure the Policy remains up to date, relevant and in line with the latest guidance.

### **REASONS FOR RECOMMENDED OPTION**

19. The Licensing Authority is required, under the Gambling Act 2005 (The Act), to produce a Statement of Licensing Policy and to review the Policy at least every 3 years. The Policy has been the subject of a full consultation.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

20.

	<b>Outcomes</b>	<b>Implications</b>
	<p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>	<p>It is recognised that gambling premises are, quite often, businesses, places of employment and potential assets to the community. The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 3 licensing objectives, will have regard to this priority when making licensing decisions.</p>
	<p><b>Doncaster Living:</b> Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> <li>• The town centres are the beating heart of Doncaster</li> <li>• More people can live in a good quality, affordable home</li> <li>• Healthy and Vibrant Communities through Physical Activity and Sport</li> <li>• Everyone takes responsibility for keeping Doncaster Clean</li> <li>• Building on our cultural, artistic and sporting heritage</li> </ul>	<p>It is recognised that gambling premises are, quite often, businesses, places of employment and potential assets to the community. The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 3 licensing objectives, will have regard to this priority when making licensing decisions.</p>
	<p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>	<p>None</p>

	<p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own homes</li> </ul>	<p>The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 3 licensing objectives (see above), will have regard to this priority when making licensing decisions.</p>
	<p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul>	<p>None</p>

## RISKS AND ASSUMPTIONS

21. Failure to adopt and or review a statement of licensing policy would create a risk by exposing the Council to a legal and financial liability brought about by the Council's inability to discharge its functions under the Gambling Act 2005.
22. However, by preparing and publishing a statement of policy, in accordance with the Gambling Act 2005, that has regard to the licensing objectives of the 2005 Act, the Guidance to Licensing Authorities and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission, and any responses from those consulted on the statement the risk is substantially reduced.

## LEGAL IMPLICATIONS [Officer Initials HW Date 16/8/18]

23. Section 349 Gambling Act ('the Act) requires the Licensing Authority (the Authority) to prepare a statement of the principles they propose to apply in exercising their functions and publish it in accordance with the statutory requirements. The Policy must be reviewed at least every 3 years. When reviewing the policy, the Authority is required by the Act to consult the chief officer of police, those who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area, and those 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 this Act. The Act also requires the Licensing Authority, when reviewing its policy, to take account of guidance issued by the Gambling Commission. Full Council must approve the Policy for adoption.

### **FINANCIAL IMPLICATIONS [Officer Initials: RT Date: 16.08.2018]**

24. There are no financial implications associated with this report. Any costs involved with the preparation, adoption and implementation of the Policy are met by the fees paid by new applicants and existing licence holders.

### **HUMAN RESOURCES IMPLICATIONS [Officer Initials DK Date: 16/08/2018]**

25. There are no direct HR Imps in relation to this report, but if in future staff are affected or additional specialist resources are required then further consultation will need to take place with HR.

### **TECHNOLOGY IMPLICATIONS [Officer Initials KF Date:15/08/18]**

26. There are no anticipated technology implications in relation to this report.

### **HEALTH IMPLICATIONS [Officer Initials: CT Date: 16/08/2018]**

27. The inclusion to seek the views of the Director of Public Health on all applications is welcomed; problem gambling is increasingly being cited as a public health issue and the invitation to comment on licensing applications is a significant step forward in ensuring public health considerations are included in the decision making process. This ensures the impact of problem gambling and the proliferation of gambling establishments in Doncaster is minimised.
28. Problem (or harmful) gambling is defined as any type of gambling that damages personal, family or recreational pursuits. The impact can be on the individual's physical and mental health, relationships, housing and finances and affects a range of people such as families, colleagues and wider local communities.
29. Licensing Objective 3: Protecting children and other vulnerable people/persons from being harmed or exploited by gambling describes vulnerable people as:
  - People who gamble more than they want to,
  - People who gamble beyond their means,
  - People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol and drugs.
30. Public Health responded to the recent consultation on the draft Statement of Licensing policy and made a request that examples of groups of people that are considered vulnerable are made explicit in the policy; this has been actioned and has been included in this revision.
31. Public Health is also working with Licensing and Strategic Performance Unit to update the Local Area Profile. The profile will be an interactive mapping tool that profiles the characteristics of communities along with current provision of gambling/gaming establishments. The map will be used to identify any potential risks associated with the location of any new applications.

## **EQUALITY IMPLICATIONS [Officer Initials: PJW Date:15.08.2018]**

32. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

## **CONSULTATION**

33. The Gambling Act 2005 requires formal consultation with:
- The Chief Officer of Police;
  - Representatives of 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.
34. In addition to the statutory consultees, the Council has consulted widely on this Policy during the review. Full details of the consultation process and those consulted with can be found in section 1.10 of the Policy.
35. All responses received have been acknowledged and given due consideration. The matters arising out of the consultation and the actions taken are summarised at Appendix C.

## **BACKGROUND PAPERS**

36. The Draft Policy, with revisions that have arisen out of the consultation, is available at [www.doncaster.gov.uk/gamblingpolicy2019](http://www.doncaster.gov.uk/gamblingpolicy2019) and attached as Appendix D.

## **REPORT AUTHOR & CONTRIBUTORS**

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**Appendix A**  
**Statement of Licensing Policy 2019 - Gambling Act 2005**  
**Adoption Route and Timetable**

Formal Consultation took place from 28<sup>th</sup> June 2018 to 10<sup>th</sup> August 2018

<b>Meeting / Committee</b>	<b>Date of Meeting</b>
Directors Meeting	03/09/2018
Exec Board	18/09/2018
Overview and Scrutiny Management Committee	04/10/2018
Licensing Committee	17/10/2018
Cabinet	06/11/2018
Council	22/11/2018
Policy to be published by	03/01/2019
Policy Effective	31/01/2019

**Appendix B**  
**Summary of the law regarding access to licensed gambling premises by children and young people (under 18s)**

Type of Premises	Notes
Casino	Under 18s are prohibited from entering
Bingo	Under 18s may enter the premises but no person under the age of 18 can gamble on the premises. <b>NB:</b> See adult only area provisions below.
Adult gaming Centres	Under 18s are prohibited from entering.
Family Entertainment Centres	No restrictions – subject to adult only area provisions below
Betting Shops	Under 18s are prohibited from entering.
Tracks e.g.Racecourse	Under 18s may enter the premises but no person under the age of 18 is permitted to bet.
Adult only (over 18) area in Family Entertainment Centres and Bingo Halls i.e. area where category B or C gaming machines are made available.	Where provided, under 18s are prohibited from entering adult only areas. These areas must be separated from areas where children and young people are allowed.

Note: Where access to premises by children and young persons is prohibited this prohibition includes situations where they are accompanied by an adult.

## Appendix C

### Summary of matters arising out of the Consultation on the Draft Policy

#### 1. GamCare (provider of information, advice and support for the prevention of problem gambling)

Not a specific response to Doncaster's Draft Policy but a list of issues or factors which GamCare think would be helpful for licensing authorities to consider.

**Response:** Draft Policy already includes reference to measure for protecting children and vulnerable persons and, in particular, makes multiple specific references to GamCare.

#### 2. Local Parish Councillor

Requested that gender specific terms, where not specifically required, within the Policy be replaced with a suitable alternative and clarification sought on the meaning of gaming machine categories.

**Response:** Draft Policy has been suitably amended and a definition of gaming machines added.

#### 3. Racecourse Association

Clarification sought on matters relating to Racecourses.

**Response:** Following discussion, responder confirmed that they were satisfied that these were already addressed within the Draft Policy.

#### 4. Director of Public Health

Welcomed proposal that the Director of Public Health's views be sought by the Licensing Authority when performing its responsible authority role.

Recommendation that a wider definition of what the Council considers a vulnerable person to be is included in the Policy.

**Response:** Draft Policy has been amended to identify groups for whom, based on research, there is evidence to support suggestions that they are more vulnerable.

#### 5. Trade Comments made on behalf of a nationwide operator

- i. Suggestion that the Draft Policy should make reference to the Regulators' Code's wider application to the Council's activities under the Act.

**Response:** Further acknowledgement of the Regulators' Code's application has been added to the Draft Policy (para 1.7)

- ii. Suggestion that the reference to seeking the views of the Director of Public Health (para 1.8) on all applications would be inappropriate and recommendation that this new paragraph should be removed from the Draft Policy.

**Response:** The Council and Draft Policy recognise that the Director of Public Health is not a responsible authority under the Gambling Act but are aware that the Licensing Authority is a responsible authority in its own right. The Licensing Authority can legitimately make representations in respect of relevant applications and feel it is appropriate to seek the views or gather intelligence, in so far as they relate to the licensing objectives, of any person or body who may hold information that affords them the opportunity to make informed decisions about any relevant representation it may choose to make. The Draft Policy is clear that any such representation would be made by the Licensing Authority.

- iii. Suggestion that Draft Policy be amended (paras 2.1 & 2.2) to remove any possible ambiguity that a building must be finished before an application can be made.

**Response:** Draft Policy (2.1 & 2.2) amended to remove reference to finished buildings.

- iv. Suggestion that the Draft Policy is not consistent with regard to the wording used regarding the protection of children in respect of Adult Gaming Centres, Betting Premises and Bingo Premises.

**Response:** Draft Policy amended (4.8 Bingo Premises) to provide consistency

- v. Request that third bullet point of 9.1 concerning the exchange of information about “gaming trends” is too vague, runs the risk of breaching (General Data Protection Regulations) GDPR and should be removed from the Draft Policy.

**Response:** Draft Policy amended (9.1) to clarify that gaming trends relates to increased levels of gambling activity which, for example, correspond with pay days or benefit payments. There is no suggestion in the Draft Policy that operators should do anything that contravenes any data protection requirements.

- vi. Suggestion that the location of places of worship does not have any relevance to the Local Risk Assessment (9.2 and 9.5) and that these references be removed from the Draft Policy.

**Response:** The Gambling Commission’s guidance to licensing authorities states, at Part 6.21, that it is expected that the types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices. On this basis that faith groups are considered to have business interests and, thereby, fall within the definition of interested party it is appropriate that the location of such premises are considered in local risk assessments. Furthermore, we have taken the opportunity to add a new paragraph to 1.9 to reflect the Gambling Commission guidance regarding organisations that may be considered to have business interests.

- vii. Respondent does not understand why the Council considers the fact that children and young people might be able to see gambling taking place is of relevance (Para 9.4).

**Response:** The Gambling Commission's guidance to licensing authorities states, at Part 7.29, that licensees should not only be able to supervise their premises but also mitigate the risks to under 18s being attracted to enter premises by the products available within them. Where a licensing authority has concerns that such products are visible, they could for example, require the licensee to re-site the products out of view. The wording we have used in (para 9.4) bullet point 3 is such that this would not be an absolute requirement but something that should be considered on a risk basis.