



Doncaster Council

Report

Date: 04/11/2021

To the Chair and Members of the
Overview and Scrutiny Management Committee

Statement of Licensing Policy 2022 – Gambling Act 2005

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr J Blackham	All	Yes

EXECUTIVE SUMMARY

1. To request that the members of the Committee note and consider the adoption of the Statement of Licensing Policy 2022 - Gambling Act 2005 following its 3 year review. For information, the route for adoption is attached as Appendix A.

EXEMPT REPORT

2. This report is not exempt.

RECOMMENDATIONS

3. It is recommended that the members of the Committee note the responses to consultation and the proposed Statement of Policy - Gambling Act 2005 and members recommend that Full Council adopt the policy.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. Doncaster Council is required by the Gambling Act 2005 to produce a Statement of Licensing Policy and to review its Policy every 3 years. 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-year period.

BACKGROUND

5. 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 existing Policy comes to the end of its 3-year period on 31st January 2022.

6. 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.
7. 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 2005 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.
8. This is the sixth 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.
9. 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.
10. 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.
11. 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.
12. 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. 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.
13. 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.

14. The Policy continues to allow for the Licensing Authority, in its capacity as a responsible authority under the Gambling Act 2005 (The Act), to 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.
15. This Policy will be reviewed and revised by the Council as and when required.
16. Where applicable, any matters arising out of the consultation and the actions taken are summarised at Appendix B.
17. The Draft Policy is attached as Appendix C.

OPTIONS CONSIDERED

18. The Policy has been reviewed to ensure it is relevant to Doncaster in 2022 and beyond, taking account of the latest Guidance to Local Authorities produced by the Gambling Commission. The Policy remains largely unchanged from the existing version.

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 every 3 years. The Policy has been the subject of a full consultation.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 20.

	Outcomes	Implications
	<p>Doncaster Working: 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"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<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 will have regard to this priority when making licensing decisions.</p>
	<p>Doncaster Living: 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"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home 	<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</p>

	<ul style="list-style-type: none"> • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	Statement of Licensing Policy will have regard to this priority when making licensing decisions.
	<p>Doncaster Learning: 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"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	None
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy will have regard to this priority when making licensing decisions.
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	None

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 [MCC 11/10/21]

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: 21/09/21]

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: 21/09/2021]

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 PW Date: 27/09/21]

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

HEALTH IMPLICATIONS [Officer Initials: CT Date: 8.10.21]

27. Problem gambling is increasingly being cited as a public health issue and the continuation of the invitation to comment on licensing applications is a significant step forward in ensuring public health considerations are included in the decision making process.
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 and Licensing will continue to together to look at measures to minimise harmful and problem gambling within Doncaster.

EQUALITY IMPLICATIONS [Officer Initials: DDS Date: 29/09/2021]

31. 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

32. 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.

33. 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.

34. All responses received have been acknowledged and given due consideration. Where applicable, any matters arising out of the consultation and the actions taken are summarised at Appendix B.

BACKGROUND PAPERS

35. The Draft Policy, with any revisions that have arisen out of the consultation, is attached as Appendix C.

REPORT AUTHOR & CONTRIBUTORS

David Smith: Licensing Officer
Telephone: 01302 862546
Email: david.smith@doncaster.gov.uk

Dan Swaine
Director of Economy and Environment

**Statement of Licensing Policy 2022 - Gambling Act 2005
Adoption Route**

Formal Consultation took place from 17 September 2021 to 15 October 2021

Meeting / Committee	Date of Meeting	Outcome (where applicable)
Overview and Scrutiny Management Committee	04/11/2021	
Licensing Committee	25/11/2021	
Cabinet	15/12/2021	
Council	20/01/2022	

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

The Betting and Gaming Council (Gosschalks Solicitors acting on behalf of)

1. *On behalf of the BGC we welcome the acknowledgment of the contribution of the gambling sector to the economic development of the Borough contained in the foreword to the draft policy and the statement in paragraph 1.7 that the starting point in determining applications will be to grant the application without additional conditions.*
 - No action required.
2. *There are a number of references throughout the draft policy to promoting or the promotion of the licensing objectives. These references (paragraphs 1.4, 1.7, 2.5, 4.1 and 4.4) should be amended to reflect the requirements of Gambling Act 2005. The Act requires applications to be “reasonably consistent” with the licensing objectives. There is no duty on any person other than the Gambling Commission to promote the licensing objectives and to avoid confusion with the requirements of Licensing Act 2003, these references to promotion of the licensing objectives should be removed.*
 - Paragraphs 1.4, 1.7, 2.5, 4.1 and 4.4 have been amended to reflect the requirement to be ‘reasonably consistent with’ rather than ‘the promotion of the licensing objectives.
3. *Paragraph 1.7 contains a statement that “All applicants for Premises Licences will be required to set out how they will promote the licensing objectives, as specified in section 1.4, and what measures they intend to employ to ensure compliance with them.” This paragraph then goes on to refer to the applicant’s risk assessment. This paragraph should be redrafted in order that it is clear that the policies, procedures and measures proposed by the applicant to ensure consistency with the licensing objectives are to be contained within that risk assessment rather than within the application. Otherwise, there is a suggestion that like Licensing Act 2003 applications, an applicant is being invited to “suggest” conditions for imposition on the licence.*
 - The specified paragraph has been reorganised to clarify that the information should be included as part of the risk assessment and not the application form.
4. *Paragraph 4.3 explains the licensing authority’s approach to the imposition of conditions on premises licences. This section would be assisted by a reiteration of the statement referred to above in paragraph 1.7 that the starting point in determining applications will be to grant the application without additional conditions and further that the mandatory and default conditions that attach to all premises licences are intended to be sufficient to ensure operation that is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that is not adequately addressed by the policies, procedures and mitigation measures contained within the applicant’s risk assessment.*
 - Paragraph 4.3 has been amended to include two additional sentences covering the points raised.

5. *Paragraph 4.9 refers to the Licensing Authority's power to limit the number of betting machines an operator wishes to offer. This section would be assisted if it was redrafted to make a clear distinction between betting machines (where the Licensing Authority has the power to limit numbers) and gaming machines (where it does not.) The holder of a betting premises licence may make available for use up to four gaming machines of categories B, C or D.*
- An additional paragraph has been added to this section to clarify the difference between the types of machines.
6. *Paragraphs 9.1 and 9.2 contain lists of matters that the licensing authority recommends are considered by operators when conducting risk assessments. These lists should 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 account. The examples of matters that the licensing authority recommends be considered needs therefore only to reflect matters that are relevant to the licensing objectives.

It is impossible to see how issues such as "known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities etc." could pose a risk to the licensing objectives. Similarly, "Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti tagging, underage drinking etc." and the reference to "matters of faith" should both be removed.

Finally, the references to, "Gaming trends such as increased levels of gambling activity which, for example, correspond with pay days or benefits payments" in paragraphs 9.1 and 9.2 should be removed as these 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.

- Section 7.2 of the policy refers to the publication 'Tackling gambling related harm – A whole council approach', which identifies groups that are considered more vulnerable. The Council believes that it is important for operators to consider the local area and identify in their risk assessment the steps they will take to prevent these vulnerable groups from being harmed or exploited by gambling. For these reasons, no amendment to the policy is proposed.
- The reference to gaming trends corresponding with paydays or benefit payments was added to the Policy in 2018 following comments received on behalf of a nationwide trade operator during consultation at that time. It was suggested that the previous reference to 'gaming trends' was too vague and examples should be included in the policy. For these reasons, no amendment to the policy is proposed.
- The inclusion of 'matters of faith' and places of worship were commented on during the 2018 consultation. The response given at that time stated that the Gambling Commission's guidance to licensing authorities states 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. The authority has already considered this point made a determination, therefore, no amendment to the policy is proposed.