

To the Chair and Members of the Council

## STATEMENT OF LICENSING POLICY 2016 – GAMBLING ACT 2005

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Christopher McGuinness	All	PO351

### EXECUTIVE SUMMARY

1. The purpose of this report is to request members of the Council to consider the adoption of the Statement of Licensing Policy 2016 (Gambling Act 2005) following its triennial review. 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 - Gambling Act 2005 and, following consideration of the responses received during the consultation and the resolutions by the Licensing Committee and Cabinet - 15<sup>th</sup> October 2015 and 3<sup>rd</sup> November respectively, resolve that the Policy be adopted to take effect from 31<sup>st</sup> January 2016.

### 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 fourth 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 2016. There are three licensing objectives set out in the Act and these must be addressed within the Authority's Statement of Licensing Policy, namely:
  - i. preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
  - ii. ensuring that gambling is conducted in a fair and open way.
  - iii. 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. The Policy has to be reviewed at least every 3 years and whilst there are changes these are, in the main, minor updates to the previous Policy which allows for each application to be considered on its merits taking into account the principles outlined above.
7. We have taken the opportunity to facilitate 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.
8. A local area profile will be produced that shows the location of facilities associated with children and vulnerable persons as well as some socio-economic indicators of potential vulnerability such as deprivation and unemployment. We expect operators of gambling premises to have regard to the profile when undertaking their own risk assessment on their premises and when they make licence applications.
9. The legislation requires Licensing Authorities to consult with the police and representatives of those affected by the Policy prior to adoption of its Policy. We have consulted widely and four responses were received. A summary of the responses are attached at Appendix B
10. A summary of the main changes is at Appendix C. The proposed Policy is attached as Appendix D.

#### **OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION**

11. The Policy has been reviewed and updated to ensure it is relevant to Doncaster in 2016 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.
12. 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.

13. With regard to the responses received during the consultation period (Appendix B), these have been considered by the Licensing Committee which resolved to recommend the reviewed Policy to Cabinet prior to it being considered by Council.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

14.

	<b>Outcomes</b>	<b>Implications</b>
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>It is recognised that licensed gambling premises are, quite often, businesses and places of employment.</p> <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, will have regard to this priority when making licensing decisions.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></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>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>It is recognised that gambling premises are, quite often, businesses, places of employment and potential assets to the community.</p> <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, will have regard to this priority when making licensing decisions</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>None</p>

	Council services are modern and value for money.	None
	Working with our partners we will provide strong leadership and governance.	None

## **RISKS AND ASSUMPTIONS**

15. Failure to adopt and or review a statement of licensing policy (cause), will exposed the Council to a legal and financial liability (event) brought about by the Council's inability to discharge its functions under the Gambling Act 2005. The initial risk rating is 20 = Likelihood 5 (very likely) x Impact 5 (critical).
16. 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 current risk rating is 1 = Likelihood 1(very unlikely) x Impact 1 (slight).

## **LEGAL IMPLICATIONS**

17. The functions under Part 8 of the Gambling Act 2005 which deals with the licensing of the premises for the purposes of Gambling in accordance with the Act are, by virtue of Section 154(1) of the Act, delegated to the Licensing Committee established under Section 6 of the Licensing Act 2003. Doncaster Council has such a Committee.
18. In addition, the Gambling Act requires the Council to prepare a statement of the principles they propose to apply in exercising their functions and publish it in accordance with the statutory requirements which includes a legal obligation to consult the Chief Officer of Police, those who appear to the Council to represent the interests of persons carrying on gambling businesses in the authority's area, and those who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under this Act. The statement must be reviewed at least every three years and must be approved for adoption by the Full Council.

## **FINANCIAL IMPLICATIONS**

19. 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**

20. Not applicable.

## **TECHNOLOGY IMPLICATIONS**

21. Not applicable

## **EQUALITY IMPLICATIONS**

22. 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**

23. The Gambling Act 2005 requires formal consultation with:
- a. The Chief Officer of Police;
  - b. Representatives of the holders of the various licenses for premises within the Borough who will be affected by the Policy; and
  - c. Persons/bodies representing the interests of persons likely to be affected by the Policy.
24. Full details of the consultation process and those consulted with can be found in section 1.10 of the Policy.
25. Responses to the consultation have been received from four trade related sources. These are summarized at Appendix B and attached at B1 to B4.

## **BACKGROUND PAPERS**

26. None

## **REPORT AUTHOR & CONTRIBUTORS**

Paul Williams: Business Safety and Licensing Manager .  
Telephone: 01302 737837  
Email: pj.williams@doncaster.gov.uk

Helen Wilson: Senior Legal Advisor  
Telephone: 01302 734688  
Email: helen.wilson@doncaster.gov.uk

Catherine Anderson: Finance Manager  
Telephone: 01302 736611  
E Mail: catherine.anderson@doncaster.gov.uk

**Peter Dale**  
**Director of Regeneration and Environment**

**Appendix A**  
**Statement of Licensing Policy 2016 - Gambling Act 2005**  
**Adoption Route and Timetable**

<b>Meeting / Committee</b>	<b>Date of Meeting</b>
Directors Meeting	1/9/15
Exec Board	15/9/15
Overview and Scrutiny Management Committee	8/10/15
Licensing Committee	15/10/15
Cabinet	3/11/15
Council	26/11/15

**Appendix B**  
**Relevant consultation responses received**

<b>Source</b>	<b>Summary</b>	<b>Comments / Recommended Action</b>
<p>Association of British Bookmakers Ltd (ABB) <b>Appendix B1</b></p>	<p>Largely a generic response to all local authority gambling policies relating to the new codes of practice imposed by the Gambling Commission and the introduction of a Local Area Profile.</p> <p>Specific to Doncaster policy; Para 9.5 Local area profile</p> <p>We are concerned at the inclusion of the following in the draft Statement: <i>“When determining an application to grant a Premises Licence or review a Premises Licence, regard will be taken to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children.”</i> <i>“A local area profile will be produced that shows the location of facilities associated with children and vulnerable persons as well as some socioeconomic indicators of potential vulnerability such as deprivation and unemployment.”</i> <i>“If an application for a new licence or variation is submitted that is within 400 metres of a sensitive building or vulnerable community, operators are encouraged to provide details of the measures to be implemented that would overcome any risks relating to one or more of the licensing objectives.”</i></p> <p>Similarly, we are also concerned that any factors listed for operators to have mind to when compiling their risk assessments should be supported by empirical evidence detailing the risk of harm.</p>	<p>The Gambling Commission has revised the Licence Conditions and Code of Practice (LCCP) for gambling operators. Any application must now include a local area risk assessment. The LCCP are not within the remit of the Licensing Authority. Local Authorities are encouraged to provide a Local Area Profile to assist operators in completing their assessment. There is no presumption to refuse to grant applications in proximity to vulnerable premises but an expectation that operators will address this within their application and include any action taken to minimise adverse impact.</p>
<p>Coral Racing Ltd <b>Appendix B2</b></p>	<p>‘Coral Racing are generally supportive of the document but do have concerns, especially relating to the prescriptive approach it appears to take regarding risk assessments.’</p> <p>Referring to Section 1.7 of the policy ‘Coral Racing Ltd recognise the requirement to supply risk assessments, however Coral knows of no evidence that the location of a licensed betting office within the proximity of schools, accommodation for vulnerable people and</p>	<p>See above comments re ABB response</p>



	similar locations mentioned in the statement causes harm to the licensing objectives.'	
<b>Paddy Power Appendix B3</b>	<p>Generic reference to LCCP and Regulatory codes of practice. Specific to Doncaster policy; 'Section 9.10 provides extensive provisions as to the nature and content of local area risk assessments to be provided by operators. The Authority should consider that where operators implement extensive policies in accordance with the Gambling Commission's LCCP that without evidence to suggest that such policies are insufficient to address concerns within local areas, a repeat analysis may not be proportionate and provide an excessive burden. '</p> <p>The policy also states that consideration will be given to the location of proposed premises, in particular sensitive locations along with those areas with known high levels of crime and disorder (sections 7.3 and 9.10). In order to fully address any potential concerns, all risk profiles should be based upon factual evidence of gambling related harm in consideration of those measures already in place to mitigate actual rather than theoretical risk. Well managed and controlled premises, compliant with the Gambling Commission's LCCP, should not pose a gambling related risk to children and young people and additional measures, controls or conditions considered should not be imposed to address wider social issues.'</p>	<p>Section 9.10 illustrates the requirements of the LCCP for local assessments.</p> <p>See above comments re ABB response.</p>
<b>Campaign for Fairer Gambling Appendix B4</b>	<p>Generic letter sent to all local authorities which is not specific to the Doncaster policy.</p> <p>Reference to their 'Stop the FOBT Campaign' (fixed odds betting terminals). Requesting restrictions and conditions on premises operating FOBT.</p>	<p>The Licensing Authority must determine each application on its own merits in accordance with the Gambling Act 2005 and associated regulations and codes of practice. Any restrictions or conditions can only be imposed in accordance with the gambling objectives.</p>

**Appendix C**  
**Statement of Licensing Policy 2016 - Gambling Act 2005**  
**Summary of Key Changes**

In producing this draft statement, regard has been had to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission.

Amendments have been made to the existing policy to reflect new guidance and other administrative changes. The most significant change is the inclusion of the facility to develop a 'Local Area Profile' which we expect operators to have regard to when preparing risk assessments on their premises and when they make new licence applications (section 9).