

LICENSING COMMITTEE

Date: 11 October 2018

GAMBLING – STATEMENT OF LICENSING POLICY

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1. Area Affected

1.1 All areas of the County Borough

2. Purpose of Report

2.1 To seek the recommendations of the Licensing Committee in respect of the Gambling Statement of Licensing Policy, and to seek the views of the Committee on whether the Council should make a resolution not to issue casino licences.

3. Recommendation(s)

3.1 Members are asked to

- 1 Recommend the adoption of the Gambling Statement of Licensing Policy, making any such changes they view necessary prior to the adoption of that statement, and
- 2 Provide any such information and/or opinions they would wish to be considered by the Council when deciding whether the Council should make a resolution not to issue casino licences.

4. Background

4.1 The Gambling Act 2005 (hereafter referred to as the Act) brought together a number of historical pieces of legislation, to create a single framework for the licensing of gambling businesses. Responsibility for delivery of those functions is led by the Gambling Commission, with local authorities responsible for the licensing of gambling premises in their area.

4.2 The types of gambling licence a business may need are as follows

- an operating licence for the business itself (issued by the Gambling Commission)
- a personal management licence for certain people within the organisation (at strategic management level, regional management, and at individual premises level for casino and bingo premises) (issued by the Gambling Commission)
- a personal functional licence at an individual level for some supervisory and casino activities (issued by the Gambling Commission)

- a premises licence (issued by local licensing authority).

The Gambling Commission issues information for existing or prospective gambling businesses in each industry sector relating to the licenses that they issue, including advice and guidance on how to comply with the law and licence conditions and codes of practice. The Gambling Commission also employs regional Compliance Managers who, as part of their enforcement role, liaise and carry out joint inspections with local authority officers.

- 4.3 Gambling Commission figures, published in 2015, showed that around 60% of adults gamble, with the most popular gambling activities being the National Lottery draws (46%), scratch cards (23%) and other lotteries (15%).

Just under half of adults participate in other types of gambling activity each year, with off-line and on-line horse betting and other sports betting being the most popular forms of gambling, followed by slot machines. These forms of gambling were most popular in the younger age groups, with older gamblers focussing more on lotteries etc.

Whilst the Gambling Commission bears most of the responsibility for the control of gambling activities, Local Authorities licence and enforce in respect of gambling premises in their area, and the framework for these activities are established by each Authority in a statement of licensing policy.

- 4.4 Section 349 of the Act requires that

(1) A licensing authority shall before each successive period of three years—

(a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and

(b) publish the statement

- 4.5 The Gambling Commission “Guidance to licensing authorities”, which is statutory guidance under the Act, explains that

“The statement of policy forms the licensing authority’s mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality”

- 4.6 The Gambling Commission guidance lays down how Local Authority statements of policy should be developed, and specifies that they should include:

- Fundamental principles
- Form and content
- Other matters to be considered e.g. casino statement
- Local risk assessments
- Local area profile

- 4.7 It is sometimes difficult to remember that the first apple iPhone, which revolutionised the Smartphone market, only went on sale in 2007. Just 10 years later, over 82% of the UK adult population are estimated to own and use smartphones, and a wide range of on-line gambling services have become available more recently that offer the opportunity to gamble wherever and whenever their customers wish. Around 33% of gambling is now thought to be on-line, although this may be slightly lower in Wales in areas where high speed internet and mobile phone connections are less accessible.

In response, many gambling premises have focussed on the social aspects of gambling, with nicer premises and food/drink on offer to make premises increasing accessible to both men and women of all age groups. Bingo, in particular, is seen a primarily social activity by many, with local bingo premises busy throughout the day. Local gambling premises therefore continue to be popular and well used, and the Gambling Policy continues to have an important role to play in Torfaen in balancing the needs of those that enjoy gambling against the needs of those harmed by gambling activities.

5. **Issues and Findings**

- 5.1 A Statement of Licensing Policy (hereafter referred to as the Gambling Policy) for the authority was first adopted in 2005/6 and has been updated since that time in line with statutory requirements.

The most recent Gambling Policy for the authority was approved on the 22nd September 2015, and came into force on 31st January 2016

- 5.2 Torfaen's statement of policy relates to certain gambling premises in the Torfaen area, which are currently as follows:-

Premises type	Number of premises
Betting (other)	9
Bingo	2
Adult Gaming Centre	2

Local licensing authorities also provide lottery registrations and gambling permits for pubs, clubs and other establishments for low-level gambling. However, these offer few, if any, opportunities for local authorities to impose limits or controls other than as defined in law.

- 5.3 As a first step towards preparing a statement of the principals to be adopted by the authority, the existing Gambling Policy was reviewed as follows

- 1 On an all-Gwent basis via the Gwent Licensing Forum, attended by Licensing Officers from the 5 Gwent Authorities, in respect of any changes in the statutory guidance issued by the Gambling Commission and any other generic matters arising since the last review of the Gambling Policy, and
- 2 Specifically by Torfaen Licensing Officers in respect of the local area profile and risk assessments, and any other local matters.

From this process, a draft Gambling Policy was developed for further consideration as appropriate.

5.4 The draft Gambling Policy was presented to the Licensing Committee on the 10th May 2018, along with proposals for consultation on that Policy, and this was approved for consultation with minor amendments.

5.5 The Act requires licensing authorities to consult with the following on their statement of policy or any subsequent revision:

- in England and Wales, the chief officer of police for the authority's area
- 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.

The guidance states that it is a matter for licensing authorities to develop their own consultation practices, including the methods for consultation and who they consider it necessary to consult with, which might include consultation with relevant local groups, business and responsible authorities. However, the guidance goes on to state that any written consultation should follow best practice as set out by the Department for Business, Innovation and Skills, and that consultation responses should usually be published within 12 weeks of the consultation closing.

5.6 The consultation process for Torfaen was designed to ensure that local gambling businesses, local residents using or affected by gambling businesses, and organisations representing those potentially harmed by gambling were offered the opportunity to comment on the Gambling Policy. To this end:-

- 1 Details of the consultation were put on the consultation section of the Torfaen web-site so that it could be accessed by local people and beyond.
- 2 Letters were sent to all 113 Torfaen Gambling premises licence-holders.
- 3 Letters were sent to 44 internal and external organisations recognised as trade associations or those dealing with or representing those potentially affected by gambling or experiencing harm from gambling activities. The list of these consultees is attached as Appendix 1.

5.7 The consultation ran for three months to the 15th September 2018 and, in all, 6 responses were received from (in date order of receipt)

- Gambling Commission
- Newport Citizens Advice
- Gamcare
- HM Custom & Excise

- Social Services
- Aneurin Bevan University Health Board

Copies of the consultation responses are attached as Appendix 2. Five were received as e-mails from individuals within the organisation they represent and these have been redacted to remove personal details. Gamcare also provided details of training that they provide, which is available to Members on request.

The Gwent Licensing Forum continued to review generic issues around the Policy review and also any consultation responses received by the five Gwent Authorities. In order to capture as wide a response as possible, any recommendations made by the Gwent Licensing Forum through the consultation period have therefore been included in the review process.

The consultation process has also prompted some organisations to approach this and other authorities in respect of wider gambling harm issues. The Gwent Licensing Forum is now looking to work more closely with these organisations where appropriate, in order to inform future working arrangements and practices.

- 5.8 Following the close of the consultation, the draft Gambling Policy was reviewed and amended as appropriate in order to reflect matters raised by consultees.

The amended draft Gambling Policy is attached as Appendix 3. Amendments made to that Policy are shown as follows

- 1 Amendments shown in red are the initial changes made to the previous Gambling Policy, and these are the amendments that were subject to consultation.
- 2 Amendments shown in green are corrections and additions made by officers since the start of the consultation process.
- 3 Amendments shown in blue are those made to the previous Gambling Policy as a result of the consultation.

Members are specifically asked to consider whether these amendments adequately and appropriately reflect the consultation responses, and to suggest further amendments as appropriate where they do not feel this is the case.

- 5.9 Approval of the Gambling Policy rests with Council, and any recommendations made by the Licensing Committee in respect of the draft Gambling Policy and the consultation process that was followed will therefore be reported to Council for consideration.

- 5.10 As part of the Gambling Policy process, Members may also make a resolution not to issue casino licences. Torfaen has previously made such a resolution, which ceases in January 2019.

In passing such a resolution

- 1 The authority may take into account any principle or matter, not just the licensing

objectives.

- 2 The resolution must apply to casino premises generally - the authority cannot limit its effect to geographic areas or categories of casinos.
- 3 A resolution not to issue casino premises licences will not have any effect on existing casino premises licences, provisional statements issued prior to the resolution, or existing casinos with preserved entitlements from the Gaming Act 1968 – Torfaen currently has no casino premises falling within these definitions

Where a resolution is passed, it must be published by the authority in its statement of policy, stating the date on which it comes into force. For the sake of simplicity, this may be the date on which the Gambling Policy itself comes into force.

- 5.11 Any resolution not to issue casino licences must be made by Council, and cannot be made by the Licensing Committee. However, this does not preclude Members of the Licensing Committee from making suggestions and/or to Council. Members of the Licensing Committee may therefore wish to consider whether they recommend or do not recommend the adoption of a resolution not to issue casino licences.

In considering this matter, Members may wish to consider

- 1 The positive impacts that a casino may bring, in terms of job creation and other economic benefits, as well as providing an entertainment venue for those who enjoy partaking in gambling activities.
- 2 The negative impacts that a casino may bring, particularly around potential gambling addiction and other forms of harm.

Members could, instead, determine that the constitution of the authority be amended so that all casino applications are determined by the Licensing Committee, thereby allowing Members to consider the above issues on a case by case basis.

6 Consultation

The consultation processes that have been followed are outlined in this report.

7 Implications

The review of the Gambling Policy and the consultation process is a statutory requirement, and the Authority may be subject to judicial review if this process is not carried out in a timely and appropriate manner.

Legal – the Gambling Policy will determine the legal framework within which the Authority delivers licensing services in respect of gambling premises

Financial – the approval of this policy will set the framework for the delivery of gambling licensing and enforcement activities that are currently met within existing budgets.

Partners and service users – the development of robust policies helps partners and service users understand the licensing process and how it affects them.

Well-being, Social Inclusion and Equalities – Given the known harm linked to gambling addiction, well-being, social inclusion and equality issues are an important consideration for Members when coming to a decision regarding the Gambling Policy or whether to permit casinos in the Torfaen area.

Gambling is a popular pastime for a majority of the adult population, and can play a significant economic and social roles in terms of adult entertainment. Going to bingo or a betting shop is a social activity for many, and this plays a part in combating loneliness across a range of age-groups. This is not, however, the case for all gamblers.

An investigation of the social impact of problem gambling in Wales, published by the University of South Wales in 2017, outlined potential gambling harm as including personal struggles and despair, family breakdown, poverty and growing up with the threat of homelessness. This report also suggested that the gambling industry appears to target the vulnerable, with gambling premises clusters located in deprived geographical areas.

Self-exclusion is promoted by the Gambling Commission as a way to minimise harm to those recognising that they have a problem, and supports those who have decided that they wish to stop gambling for at least six months and wish to be supported in their decision to stop. Once an agreement is made, the gambling company must

- close any accounts and return any money to the individual concerned
- remove their name and details from any marketing databases it uses, and
- take reasonable steps to prevent that person from gambling at that premises

All companies that offer gambling in licensed premises (arcades, bookmakers, bingo and casinos) must be part of a multi-operator self-exclusion scheme. A single request to self-exclude should then apply to all premises offering the same type of gambling in the area (for example, betting shops), rather than the customer needing to exclude from each operator individually.

Self-exclusion policies and procedures are examined by Officers as part of the inspection process and are generally regarded as robust in Torfaen, so far as is reasonably practicable. No complaints have been received directly or via the Gambling Commission regarding self-exclusion processes in Torfaen but, where complaints are received, these would be investigated as a matter of priority and enforcement action taken where needed. This could, for example, include the review of any licence.

The level of gambling harm arising from on-line activities is increasingly being recognised, and some on-line gambling businesses have recently been fined by the Gambling Commission for failing to protect users who have been harmed by gambling and had sought to self-exclude. The rapid increase in advertising of these on-line companies is also being examined.

The review and updating of the Gambling Policy helps to ensure that social inclusion and equality issues can be taken into account as part of the gambling premise licensing and enforcement process, and in particular helps to address issues around potential gambling addiction.

8. Action to be taken following decision

8.1 There are specified requirements within the consultation process, and key statutory dates for the publication and commencement of this policy. The time-frame is, therefore, as follows

Action	Date
Policy to the Licensing Committee for consideration	11 October 2018
Policy to full Council	23 October 2018
Legal notice in newspaper for a minimum of 4 weeks	By end of November 2018
Publication of policy	3rd Jan 2019 – statutory date
Commencement of policy	31st Jan 2019 – statutory date

9. Monitoring and Evaluation

9.1 The Licensing Team will continue to review Gambling Policy to ensure that the Authority delivers the best service to the public.

10. Conclusion/summary

10.1 The review of the Gambling Policy is a statutory requirement but also assists the authority in respect of service delivery and enforcement, creates a level playing field for businesses and helps protect local communities.

This report asks Members of the Licensing Committee to determine whether the draft Gambling Policy should now recommended to Council for adoption.

11 Recommendation(s)

11.1 Members are asked to

- 1 Recommend the adoption of the Gambling Statement of Licensing Policy, making any such changes they view necessary prior to the adoption of that statement, and
- 2 Provide any such information and/or opinions they would wish to be considered

by the Council when deciding whether the Council should make a resolution not to issue casino licences.

Appendices	<ol style="list-style-type: none">1. List of consultees2. List of responses to the consultation3. Draft Gambling Policy 2019/2022
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Background Papers	<p>Gambling Commission Guidance to licensing authorities 5th edition</p> <p>An investigation of the social impact of problem gambling in Wales</p> <p>Gambling behaviour in Great Britain in 2015</p>
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For a copy of the background papers or for further information about this report, please telephone: Alison Hughes, Team Leader Licensing. Tel: 01633 647286
