



North Devon Council

Report Date: 9 April 2024

Topic: Review of Gambling Act Statement of Licensing Principles

Report by: Katy Nicholls, Public Protection Manager

1. INTRODUCTION

- 1.1 North Devon Council is under a legal obligation to review its Gambling Statement of Licensing Principles on a three yearly basis.
- 1.2 This report seeks to consult members of the Licensing and Community Safety Committee on a proposed draft revision to the Council's Gambling Statement of Licensing Principles, in which minor variations are sought, after which a consultation exercise is proposed to follow. It is further suggested that the Council re-consider its stance on whether it should put in place a No Casino Resolution, and if so include this as part of any consultation.
- 1.3 The feedback received as a result of the consultation exercise will then be considered by the Licensing and Community Safety Committee prior to a recommendation being made for the adoption of an amended Statement of Principles to Strategy and Resources Committee for approval by Full Council.

2. RECOMMENDATIONS

- 2.1 It is **RECOMMENDED** that the Licensing and Community Safety Committee:
 - 2.1.1 Consider the draft revised Gambling Statement of Licensing Principles found within **Appendix B** (this is a tracked document highlighting the amendments made to the current policy).
 - 2.1.2 Consider whether to include a proposed No Casino Resolution as part of the Statement of Licensing Principles consultation and seek wider opinion on the granting of such a resolution.
 - 2.1.3 Instruct that the Public Protection Manager commence a six week process of public consultation on the above draft revised

3. REASONS FOR RECOMMENDATIONS

- 3.1 In order to discharge its statutory duties under the Gambling Act 2005, North Devon Council is required to produce a Gambling Statement of Principles and review it at least every three years.
- 3.2 The current Gambling Statement of Principles was published on 2 December 2021 and became effective on 3 January 2022. In order to keep within the statutory time-scale and adhere to the Council's Constitution, committee time- tables, and best practice guidance relevant to consultation, the following process is proposed to be undertaken:
 - 3.2.1 the Licensing and Community Safety Committee will consider this report; consultation will be undertaken and the Statement of Principles re-considered by the Licensing and Community Safety Committee on the 10 September 2024, then Strategy and Resources on the 4 November 2024 and thereafter be approved with or without amendment by Full Council on the 20 November 2024.

4. REPORT

Introduction

- 4.1 The Gambling Act 2005 ("the Act") received royal assent in April 2005 and consolidated regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling in one Act.
- 4.2 The Act established a non-departmental public body, The Gambling Commission, which has responsibility for advising both central and local government on issues relating to gambling.
- 4.3 North Devon Council has responsibilities under the Act to issue premises licences, permits and notices in respect of premises where it is proposed that gambling should take place. Additionally the Council is responsible for the registration of Small Society Lotteries.
- 4.4 Section 349 of the Act requires all licensing authorities to prepare and publish a Statement of the Principles that they intend to apply in exercising their functions under the Act. This licensing Statement of

Principles will last for a maximum of three years, but it can be reviewed and revised by the authority at any time during that three year period.

- 4.5 The revised draft Gambling Statement of Licensing Principles (**Appendix B**) has been written pursuant to the provisions of the Gambling Act 2005 and the Guidance issued under Section 25 of the Act by the Gambling Commission.
- 4.6 The route proposed through the Council's Committee process will enable the Council to satisfy the legislation requiring the Statement of Principles to be published every three years and by 3 January 2025.

Consultation

- 4.7 In line with the risk assessment methodology outlined in 'Consultation Principles' (November 2013) published by the Cabinet Office, the proposed consultation on the draft revision will be carried out for a period of 6 weeks. This period will provide an opportunity for all stakeholders, interested parties and the general public to make comments on the content of the draft revision.
- 4.8 Section 349(3) of the Gambling Act 2005 requires licensing authorities to consult the following when making any revision to a Statement of Principles:
 - The Chief 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; and
 - 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 this Act.
- 4.9 All premises in North Devon with a licence/permit issued under the Gambling Act 2005 are proposed to be sent letters advising of the consultation (see Geographical Area section of the Proposed Statement of Licensing Principles for numbers).
- 4.10 Bodies and organisations to be consulted are outlined in the Statement of Principles. Providing transparency over this list allows additional bodies to approach the Council should they wish to be included in the next round of consultation. Additional organisations have been added by way of this

review, inclusive of the Betting and Gaming Council; The Bingo Association; and Gamble Aware.

4.11 The draft revised statement will be published on the Council's website.

Advice to Licensing Authorities and Gambling Act Review

4.12 Subsequent to the last review of the Gambling Statement of Principles, there has been a revision to the Gambling Commission's Guidance to Local Authorities in April 2023, however this appears to be largely in document formatting and thus there are no major changes in advice to consider in terms of the guidance as part of this review.

4.13 The Government published the [Gambling Act review](#) on 8 December 2020. Its purpose was to examine whether the 2005 Act provided the right "balance of regulation" in the digital age. The review noted concerns that too many people were "still experiencing significant harm" when gambling. There was therefore a need to look at whether "further protections" were needed to prevent the exploitation of vulnerable people. At the same time, the review wanted to respect the freedom of adults to choose how they spend their money, and the "value of a responsible industry which protects players, provides jobs and pays taxes". A call for evidence on the review closed on 31 March 2021.

4.14 There were around 16,000 responses to the Gambling Act review. The Government originally planned to issue its response by the end of 2021, but a [Gambling White Paper](#) was published on 27 April 2023. In a [statement](#) to the House of Commons, Lucy Frazer, the Secretary of State for Culture, Media and Sport, observed that smartphones had "transformed" gambling and the temptation to gamble was "everywhere". While the "overwhelming majority" of gambling was done safely and within people's means", for some it could lead to addiction and "shattered families; lost jobs; foreclosed homes; jail time; suicide".

4.15 The Secretary of State said the white paper would update gambling rules and regulations to "protect the most vulnerable while also allowing everyone else to enjoy gambling without harm". It sets out proposals for reform in six areas:

- online gambling.
- marketing and advertising.
- the Gambling Commission's powers and resources.
- dispute resolution and consumer redress.
- children and young adults.

- land-based gambling.

4.16 **Appendix A** provides an indication of the main areas of review, which whilst not all necessarily relevant to the subject of this Gambling Licensing Statement of Principles Review, will be of relevance to members to enable a broader understanding of the Government's current objectives pertaining to gambling.

4.17 The revised Statement of Principles focuses on the on-going responsibilities of licensed premises to proactively uphold the licensing objectives. The suggested changes to the current Statement of Principles include:

- Update to population estimates, demographic information; numbers of gambling premises and permits in the 'Geographical Area' Section.
- Link to the Council's new Corporate Enforcement Policy.
- New section on gambling prevalence and social responsibility.
- Insertion of hyperlinks to legislation, and codes of practice – e.g. Social Responsibility Code; Code of Practice for Machines and Pubs, Code of Practice on Equal Chance Gaming in Clubs and Premises with an Alcohol Licence.
- Insertion of hyperlinks to categories of machines; the inspection templates used by the Council etc.
- Improvement to the general points on gaming machines.
- New section on gaming in alcohol licensed premises.
- Improvement to section on three or more machines in alcohol licensed premises.

No Casino Resolution

4.18 Under section 166 of the Act a licensing authority may resolve not to issue casino premises licences. This Council has no casinos, and has not passed a No Casino Resolution. The Statement of Principles currently cites that the Council is aware that it has the power to create a resolution and should Full Council decide in the future to pass such a resolution, it will update the Statement of Principles with details of that resolution.

4.19 The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the Licensing and Community Safety Committee. Where a resolution is passed it must be published by the authority in its three year Statement of Gambling Principles. It is also possible for any person or organisation to challenge a no casinos resolution if adopted by judicial review.

- 4.20 The Gambling Commission's Guidance cites that if passed a resolution "must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution (again the whole authority must pass that resolution). The resolution will lapse after three years so, should the licensing authority wish to keep the policy in place, they should pass a resolution every three years."
- 4.21 In passing such a resolution the authority may take into account any relevant principles or matters, not just the licensing objectives. In the Gambling Commission's Guidance to Local Authorities it notes that "licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers)." Thus in passing a resolution it would seem that a wide range of opinion may be considered.
- 4.22 Current casino licences originate from two legislative regimes. The Gaming Act 1968 restricted prescribed numbers of casinos to "permitted areas" based on population density and seaside resorts. The Gambling Act 2005 provided for a new concept of casino, with a small number of two types of licence created, known as [Large and Small 2005 Act Casinos](#). Section 175 of the 2005 Act states the national permitted numbers of new casinos, this includes no more than one regional casino, eight large and eight small casinos.
- 4.23 A No Casino Resolution will only affect new casinos. It will not have any effect on casino premises that were originally licensed under the Gaming Act 1968, casino premises licences issued before the resolution takes effect.
- 4.24 The 2005 Act casinos were intended to be destination venues, with a wider range of activities to attract tourism and investment into areas in need of regeneration. When the 2005 Act was passed, licensees under the 1968 Act could apply to convert those permissions into premises licences under the 2005 Act. 1968 Act casinos are limited to 20 gaming

machines only, regardless of size, unless they restrict themselves to lower stakes machines only. The cap is higher for 2005 Act casinos – 80 for Small and 150 for Large. These limits apply where any machines offered are Category B. Nearly all machines in casinos are Category B1, which has a maximum stake of £5 and is restricted to casinos only.

- 4.25 The 2005 Act casinos are also subject to minimum overall and non-gaming space requirements which were introduced alongside a ratio of machines to tables aimed at ensuring a balanced offer of different products. The new space requirements were also expected to encourage customers to have breaks in play. Betting was permitted in all 2005 Act casinos, and bingo was also permitted in Large ones. The 2005 Act licences were allocated by a Casino Advisory Panel following bids from local authorities.
- 4.26 A regional casino, which could have 1000+ machines with unlimited stakes and prizes, was provided for in the Act but the secondary legislation never passed. It was intended that the 2005 Act licences would be taken up and, subject to evaluation, more created, and perhaps that the 1968 Act casinos would be phased out or move over to the 2005 Act system. This has not happened so far and 137 casino licences are still of the 1968 Act type. These include a variety of venues in practice, including ‘high-end’ casinos which cater for high net worth (mainly international) clients and have a business model based primarily on live gaming tables. When the 2005 Act was passed, the then government planned to review the changes in 2014, but only two of the new casino licences were active at that stage. The above White Paper cites that there are now seven active 2005 Act casinos from which to draw conclusions, with another one having opened and then closed again.
- 4.27 The House of Lords Select Committee report recommended in 2020 that casinos should be regulated under the same system regardless of when their licence was created. The above White Paper details that the size of Britain’s land-based casino sector has remained relatively flat in recent years, in contrast to an expanding online market. The number of active licensed premises increased from 148 (2015) to 156 (2020), but the impact of COVID-19 resulted in a number of permanent closures (active licensed premises were 144 in 2022). In 2021/22 (the most recent full year), online casino gross gambling yield was more than five times that of land-based casinos.
- 4.28 By an Order in 2008 the Secretary of State provided which authorities would be permitted to issue the limited number of casino licences, North



Devon Council was not one of these and applicants are prohibited from applying for a new casino licence to this authority.

4.29 Whilst the Secretary of State can increase the number of Casino Licences available by way of Order then, so long as this Authority did not bid for such additional licences and was not prescribed by an Order as an authority which could grant such licences, applicants would remain prohibited from making Casino applications to the Council unless there was an amendment to the Gambling Act itself. Consequently there is currently no legal possibility of a licensed casino in North Devon. It is however possible that this position could change in the future and there are other Councils with No Casino Resolutions in place for this reason. None of this of course prevents the Council making a new No Casino Resolution in the future if thought necessary.

5 FINANCIAL AND HUMAN RESOURCE IMPLICATIONS

5.1 There are no financial or human resource implications to the Council associated with this report, other than those arising through the required consultation and advertisement process.

6 CONSTITUTIONAL CONTEXT

6.1 Article of Part 3 Annexe 1 paragraph:4b.

6.2 Referred or delegated power?: delegated.

7 EQUALITIES ASSESSMENT

7.1 An Equality Impact Assessment will be undertaken based upon the proposals agreed to be consulted upon and prior to Strategy and Resources considering this item.

8 ENVIRONMENTAL ASSESSMENT

8.1. An environmental assessment has been undertaken and revealed a neutral impact.

9 STATEMENT OF CONFIDENTIALITY

9.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

10 STATEMENT OF INTERNAL ADVICE

10.1 The author (below) confirms that advice has been taken from all appropriate officers.

11 BACKGROUND PAPERS

- Gambling Act 2005.
- Gambling Act 2005 (Licensing Authority Policy Statement (England and Wales) Regulations 2006.
- Gambling Commission's Guidance to Local Authorities (11 April 2023 update).

Author: Katy Nicholls, Public Protection Manager

Date: 25 March 2024