

**REPORT FOR: OVERVIEW AND
SCRUTINY COMMITTEE**

Date of Meeting: 17th November 2015

Subject: Revised policies under the Licensing Act 2003 and the Gambling Act 2005

Responsible Officer: Venetia Reid-Baptiste – Divisional Director – Commissioning Services

**Scrutiny Lead
Member area:** Councillor Jeff Henderson

Exempt: No

Wards affected: All Wards

Enclosures: Revised Licensing policy – Licensing Act 2003
Revised Gambling policy – Gambling Act 2005
Gambling Policy Consultation responses

Section 1 – Summary and Recommendations

This report encloses the revised proposed policies under the Licensing Act 2003 and the Gambling Act 2005 for this Authority.

Recommendations:

Overview & Scrutiny Committee is requested to:

1. Note the Licensing Policy and comment on it if appropriate.
2. Note the Gambling Policy and comment on it if appropriate.

Section 2 – Report

2.1 Background & Current Situation

Statement of Licensing Policy – Licensing Act 2003

Under Section 5 of the Licensing Act 2003, a licensing authority must prepare a statement of licensing policy which effectively sets out the principles that they propose to apply in exercising their functions under this Act. It cannot be inconsistent with the provisions of the Act. It is a requirement that the Authority reviews its Licensing Policy at least every five years. The current Licensing Policy was published on 8 July 2010.

The draft revised policy was under consultation from 5 March 2015 – 29 May 2015. No responses were received.

Licensing Policy – Gambling Act 2005

Under Section 349 of the Gambling Act 2005, a licensing authority must prepare a statement of the principles that they propose to apply in exercising their functions under this Act. The current Gambling Policy was published on 19 June 2012 and it is a requirement of the Gambling Act that the Authority reviews it at least before each successive period of three years.

The draft Policy was under consultation from 13 July 2015 to 7 August 2015 and the responses received are attached to this report.

Under Section 166 of the Gambling Act, a licensing authority may resolve not to issue Casino Premises Licences. This Authority has previously agreed a “no casino” resolution which is effective for three years. The draft Policy contains a statement proposing to continue this.

Members of the Licensing & General Purposes Committee will form the sub-committees that will hear Licensing Act 2003 and Gambling Act 2003 licence applications.

2.2 Main Options

Licensing Policy – Licensing Act 2003

The options are limited as the requirement for such a policy is set out in the legislation, although there is some discretion as to the content of the statement.

The policy has been amended to incorporate the main changes brought in as a result of legislation including the Police Reform and Social Responsibility Act 2011, the Live Music Act 2012, the Deregulation Act 2015 (the deregulation of regulated entertainment between certain hours), and the Legislative Reform (Entertainment Licensing) Order 2014.

1. The options (for Council) are to approve the proposed policy (with or without any further amendments) or not approve it. The latter is not recommended due to the legislative requirement to review and maintain such a policy.

Licensing Policy – Gambling Act 2005

The options are limited as the requirement for such a policy is set out in the legislation, although there is some discretion as to the content of the statement.

A new section has been added to the policy – Section 3 Characteristics of the Borough. This is as per the Gambling Commissions guidance.

The options (for Council) are to approve the proposed policy (with or without any further amendments) or not approve it. The latter is not recommended due to the legislative requirement to review and maintain such a policy.

2.3 Consultation

Licensing Policy – Licensing Act 2003

The Licensing Policy consultation took place from 5 March 2015 and ended on 29 May 2015.

The consultation was carried out in accordance with section 5 of the Licensing Act 2003, which requires the licensing authority to consult the following on the policy statement or any subsequent revision to it:

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire and rescue authority for that area,
- (c) each Local Health Board for an area any part of which is in the licensing authority's area,]

- (d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,]
- (e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- (g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

This authority consulted with the (Chief Officer of) Police for the Harrow area and all other responsible authorities all premises and clubs licensed in Harrow under the Licensing Act 2003 and known local residents associations. The draft policy was published on the council's website for the duration of the consultation period.

By the end of the consultation period, the authority did not receive any responses regarding the policy statement.

Licensing Policy – Gambling Act 2005

A consultation on the proposed Gambling Policy took place from 13 July 2015 and ended on 7 August 2015

The consultation was carried out in accordance with the Guidance issued by the Gambling Commission and section 349 of the Gambling Act 2005. Section 349(3) of the Gambling Act 2005 requires the licensing authority to consult the following on the policy statement or any subsequent revision to it.

- (a) The chief officer of policy for the authority's area
- (b) 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
- (c) 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.

This Authority consulted with the (Chief Officer) of Police for the Harrow area, the Gambling Commission, all premises carrying out gambling and/or betting activities in Harrow, and all known residents associations. Furthermore, the consultation and proposed gambling policy were published on the Council's website. In addition to this, the consultation was also advertised in a local newspaper to enable anyone to respond.

2.4 Legal Implications

Licensing Policy – Licensing Act 2003

Section 5 of the Licensing Act requires a licensing authority in respect of each 5 year period to determine its licensing policy with respect to the exercise of its licensing functions and to publish this before the beginning of the period.

As noted earlier in this report, section 5(3) of the Act lists those persons that must be consulted by a licensing authority in relation to a proposed statement of licensing policy.

Licensing Policy – Gambling Act 2005

Section 349 of the Gambling Act requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act, and the licensing authority is expected to review it from time to time (and amend it if necessary), ensuring that it is reviewed and published at least before the end of each successive three year period.

As noted earlier in this report, section 349(3) of the Act lists those persons that must be consulted by a licensing authority in relation to a proposed statement of licensing policy.

2.5 Equalities Impact

Licensing Policy – Licensing Act 2003

Under section 149 of the Equality Act 2010, the Council (as a public authority) has a duty to have 'due regard' to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act,
- advance equality of opportunity between persons with a protected characteristic and those without
- foster good relations between persons with protected characteristics and those without.

1.1.1 The 'protected characteristics' are age, race, disability, gender reassignment, pregnancy and maternity, region or belief, sex and sexual orientation.

Having carried out an initial Equalities Impact Assessment in line with the Corporate Equalities Policy, it has been established that there is no adverse impact on any of the protected groups arising out of the proposed policy..

Licensing Policy – Gambling Act 2005

Under section 149 of the Equality Act 2010, the Council (as a public authority) has a duty to have 'due regard' to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act,
- advance equality of opportunity between persons with a protected characteristic and those without
- foster good relations between persons with protected characteristics and those without.

1.1.2 The 'protected characteristics' are age, race, disability, gender reassignment, pregnancy and maternity, region or belief, sex and sexual orientation.

Having carried out an initial Equalities Impact Assessment in line with the Corporate Equalities Policy, it has been established that there is no adverse impact on any of the protected groups arising out of the proposed policy.

2.6 Financial Implications

None

2.7 Performance Implications

None

2.8 Environmental Implications

None

2.9 Risk Management

Licensing Policy – Licensing Act 2003

The authority is required to publish a statement of its Licensing Policy at least every five years. Where this is not achieved, the authority could face challenge by persons dissatisfied with decisions made in accordance with the existing policy.

Licensing Policy – Gambling Act 2005

The authority is required to publish a statement of its Licensing Policy at least every three years. Where this is not achieved, the authority could face challenge by persons dissatisfied with decisions made in accordance with the existing policy.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow.

Licensing Policy – Licensing Act 2003

The Licensing Act 2003 is built around the four licensing objectives which are: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Each objective is of equal importance and in promoting these objectives, it will make a difference to the vulnerable, local businesses, families and our community.

Licensing Policy – Gambling Act 2005

In addition to ensuring that the Council meets its statutory obligations, this policy will help to achieve the following corporate priorities:

- United and involved communities
- Supporting and protecting people who are most in need
- Supporting our Town Centre, our local shopping centres and businesses.

The policy will also help to ensure that the objectives are upheld:

- preventing gambling from being a source of crime or disorder, being associated with crime and 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

Section 3 - Statutory Officer Clearance

Name: Jessie Mann	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 3 November 2015..		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 4 November 2015.		

Ward Councillors notified:	YES
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Section 4 - Contact Details and Background Papers

**Contact: Richard Le-Brun, Environmental Services Manager,
(Public Protection) Ext 6267**

Background Papers:

Draft Revised Licensing Policy Licensing Act 2003

Draft Revised Licensing Policy Gambling Act 2005