

Meeting:	Council
Meeting date:	21 November 2024
Report of:	Director of Environment, Transport and Planning
Portfolio of:	Licensing and Regulatory Committee, Chair Cllr Rachel Melly

Decision Report: Gambling Act 2005 – Statement of Licensing Policy

Subject of Report

1. The report seeks approval by Council to approve the revised Statement of Licensing Policy (the Policy) – in relation to matters under the Licensing Act 2005 (the 2005 Act). It follows a resolution by Members of the Licensing and Regulatory Committee on 4 November 2024, that Council should approve the revised Policy, which can be found at Annex 1. NB Eleven Members were present at the committee they all voted for the resolution.
2. The reason for the resolution was to ensure the council complied with the requirements of Section 349 of the 2005 Act, which requires licensing authorities to determine and publish a Statement of Licensing Policy at least every three years. The Policy, if approved must be published by the 10 January 2025.

Benefits and Challenges

3. The key benefit is that the council complies with the requirements of the 2005 Act, by reviewing and publishing a revised Policy, allowing it to fulfil its legal duty as the licensing authority.
4. The Policy must be taken into consideration when the licensing authority makes decisions in respect to the 2005 Act. New applicants for premises licence should take the Policy into consideration prior to applying. Licence holders should also take the Policy into consideration when undertaking risk assessments with regards to the operation of their premises.

5. The Gambling Commissions Guidance to Licensing Authorities, recommends that licensing authorities complete their own assessment of the local environment as a means of 'mapping out' the key characteristics of the local area. The Guidance refers to such an assessment as a Local Area Profile. On the 4 November 2024 Members of the Licensing and Regulatory Committee authorised officers to publish the revised Profile. As stated in paragraph 4, new applicants and licence holders should take the Profile into consideration, prior to submitting an application and/or when undertaking risk assessments with regards to the operation of their premises.

Policy Basis for Decision

6. By complying with the requirements of the 2005 Act the Council are supporting new and existing licence trade, as well as residents and businesses. The functions support the Council's Plan 'One City, for all'.

Financial Strategy Implications

7. There are no financial strategy implications.

Recommendation and Reasons

8. That in accordance with Option 1 below, Council approves the new Statement of Licensing Policy as recommended by Members of the Licensing and Regulatory Committee.

Reason – To Meet the legislative requirements of the Gambling Act 2005.

Background

9. The 2005 Act has three licensing objectives:
 - 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.

These objectives must be taken into consideration by the Gambling Commission and Local Authorities as a Licensing Authority.

10. Under the 2005 Act as a Licensing Authority the Council is responsible for issuing premises licences, where an individual or company uses premises or causes or permits premises to be used to offer gambling (only holders of operator's licence can apply for a premises licence). Premises licences can authorise the provision of facilities on:
 - a) casino premises
 - b) bingo premises
 - c) betting premises, including tracks and premises used by betting intermediaries
 - d) adult gaming centre (AGC) premises (for category B3, B4, C and D machines)
 - e) family entertainment centre (FEC) premises (for category C and D machines) – the licensing authority may issue a FEC gaming machine permit, which authorises the use of category D machines only.
11. The 2005 Act defines the responsible authorities that must be notified of applications for premises licences, and that are entitled to make representation to a licensing authority.
12. The Council is responsible for issuing permits for gaming machine. Gaming machine provisions by premises can be found on the Gambling [Commissions](#) website. The Commission and Licensing Authorities cannot set different limits or further expand or restrict the categories of machines that are permitted.
13. The Council is also responsible for registered societies to run small society lotteries.
14. The holder of an operating licence may notify a Temporary Use Notice (TUN) to a Licensing Authority to allow premises (such as hotels and conference centres) to be used temporarily for providing facilities for gambling. TUNs are often used to run poker tournaments. The Council has never received a TUN.

15. Where betting on a track on eight days or fewer in a calendar year, betting may be permitted by an Occasional Use Notice (OUN) without the need for a full premises licence. OUNs allow licensed betting operators to provide betting facilities at genuine sporting events, such as point-to-point racecourses. OUNs are submitted to Licensing Authorities. The Council has received 11 OUNs.
16. In April 2023 the Department for Culture, Media and Sport (DCMS) published a Gambling Act Review white paper for the previous Government. This work is now on pause while the new Government considers the full range of gambling policy. The Labour manifesto included comments on gambling, with a focus on reducing gambling-related harm. The DCMS are awaiting ministerial steer on the prioritisation of different measures.

The Statement of Licensing Policy

17. As stated above it is a requirement of Section 349 of the 2005 Act that licensing authorities determine and published a Policy at least every three years. City of York first published a Policy in January 2007, this Policy has been revised and published on a further five occasions, January 2010, 2013, 2016, 2019 and 2022. The current Policy was approved by Council on the 9 December 2021 and published on 10 January 2022.

Local Area Profile

18. The Business Intelligence Hub, on behalf of the licensing authority, produced the first Profile in September 2018, this was reviewed in October 2021 and again in October 2024.
19. An effective profile is likely to take account of a wide range of factors, data and information held by the licensing authority and its partner. Good profiles will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and more coordinated response to local risks.
20. The reviewed Profiles can be found at Annex 2.

Consultation Analysis

21. The report of the Licensing and Regulatory Committee highlighted the consultation undertaken. One response was received to the consultation from GamCare, who requested a 'public health approach to gambling'. The response has been shared with the Director of Public Health.

Options Analysis and Evidential Basis

22. Option 1 – That Council approves the new Statement of Licensing Policy as recommended by Members of the Licensing and Regulatory Committee.
23. Option 2 – Council does not approve the new Statement of Licensing Policy as recommended by Members of the Licensing and Regulatory Committee, giving reasons for the decision.

Analysis

24. Public Health are now working closely with the Licensing Authority. Appendix 1 'Gambling Related Harm, of the Policy has been added due to information provided by Public Health Colleagues. Information within this Appendix provides estimated levels of gambling harm for York.
25. The Gambling Commission has welcomed Public Health's engagement with Licensing Authorities on gambling matters.
26. There are currently 18 premises licence in force which authorise the following licensable functions:
 - 1 adult gaming centre
 - 1 bingo premises
 - 1 betting premises (track)
 - 15 betting premises (other) – bookmakers
27. Since the 2005 Act came into force in 2007, 62% of premises licence have been surrendered:
 - 8 adult gaming centres
 - 2 bingo premises
 - 19 betting premises (other) – bookmakers (two have surrendered in the last three years)

28. 192 premises currently have gaming machines:
- 138 notifications of 2 or less machines
 - 37 premises machine permits
 - 17 club machine permits
29. 163 small society lotteries registrations are in place.

Organisational Impact and Implications

30. The implications arising from this report are:
- **Financial:** - The Chief Finance Officer contacted. There are no direct financial implications associated with this report. Premises licence holders are required to pay an annual fee, a statutory maximum fee level is set, holders of gaming machine permit and lottery registrations are also required to pay an annual fee which is statutory.
 - **Human Resources (HR):** - The Head of HR contacted. There are no HR implications associated with this report.
 - **Legal:** As stated in paragraph 2 above, it is a legal requirement of the Gambling Act that the Policy is reviewed. The final decision to adopt or revise the Policy under the Act must be made by Full Council. Failure to comply with these requirements could result in the Council being unable to fulfil its legal duty as the licensing authority and the Council could be open to legal challenges. The Policy must be taken into consideration when the Licensing Authority makes decisions in respect of matters relating to the Gambling Act 2005. A Statement of Licensing Policy can be subject to judicial review.
 - **Procurement:** - Head of Procurement contacted. There are no procurement implications associated with this report.
 - **Health and Wellbeing:** - Director of Public Health contact. Public Health has provided data which can be found in Appendix 1 of the Policy. Information within this Appendix provides estimated levels of gambling harm for York
 - **Environment and Climate action:** - Director of Transport, Environment and Planning, and Head of Carbon Reduction contacted. There are no environment and climate actions implication associated with this report.
 - **Affordability:** - Director of Customer and Communities Contacted. This Policy protects children and other vulnerable persons from being harmed or exploited by gambling.

- **Equalities and Human Rights:** - Assistant Director of Customer, Communities and Inclusion contacted. An Equalities Impact Assessment has been completed and can be found at Annex 3.
- **Data Protection and Privacy:** information.governance@york.gov.uk contacted. The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and option this report and a DPIA completed if required. This has been logged under the reference AC-10584 with our Corporate Governance Team.
- **Communications:** - Head of Communications contacted. There are no communications implications associated with this report, the Policy and Local Area Profile will be available on the Council's website in an accessible format. Communications will be available if a reactive response is required.
- **Economy:** - Head of City Development contacted. There are no economy implications associated with this report.

Risks and Mitigations

31. The Council cannot lawfully fulfil its legal duty as a licensing authority if it fails to comply with the requirements of Section 349 of the 2005 Act, meaning the impact of a successful legal challenge is 'major' and the likelihood is 'possible'. This gives a risk score of '19' and is an orange risk on the Council's Risk Management Matrix. Complying with Section 349 by reviewing and publishing a Statement of Licensing Policy every three years means the impact reduces to 'minor' and the likelihood reduces to 'remote', which gives a risk score of '2', and is a blue risk.

Wards Impacted

32. All wards will be impacted by the Policy.

Contact details

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Background papers

[Gambling Act 2005](#)

Gambling Commission – [Guidance to licensing authorities](#)

[Report](#) taken to Licensing and Regulatory Committee on 4 November 2024

Annexes

Annex 1: Revised Statement of Licensing Policy 2026

Annex 2: Revised Local Area Profile

Annex 3: Equalities Impact Assessment