



# Business and Children's Policy and Scrutiny Committee

<b>Date:</b>	Monday 19 <sup>th</sup> July 2021
<b>Classification:</b>	General Release
<b>Title:</b>	Review of Gambling Policy
<b>Report of:</b>	Raj Mistry, Executive Director of Environment and City Management Pedro Wrobel, Executive Director, Innovation and Change Mistry
<b>Cabinet Member Portfolio</b>	Cabinet Member for Business, Licensing and Planning
<b>Wards Involved:</b>	All
<b>Policy Context:</b>	Thriving Economy and Vibrant Communities
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## **1. Executive Summary**

- 1.1 The licensing authority is required under Section 349 of the Act to prepare and publish its Statement of Principles for Gambling (Gambling Policy) for that it proposes to apply in exercising its functions under the Act every three years. Before publishing its licensing policy, the licensing authority must consult gambling operators (including industry associations) and those who are likely to be affected by the exercise of the authority's function under the Act (e.g. residents and businesses). The three-year period for Westminster's current licensing policy for gambling will end on the 30<sup>th</sup> January 2022.
- 1.2 This paper sets out the intentions to revise the Councils Gambling Policy so that it provides greater clarity on the Licensing Authority's expectations from applicants. This will include a greater focus on how gambling operators should consider and mitigate any local risks. We have also included an indicative timeline for the governance process for the consideration and adoption of the policy.

## **2. Key Matters for the Committee's Consideration**

- 2.1 The Committee is asked to:

- Comment on the proposed changes to the Gambling Policy
- Comment on the proposal to produce Local Area Profiles
- Comment on groups and organisations that the Council may want to engage with during the consultation period

### **3. Background**

3.1 The Gambling Act 2005 (the Act) regulates gambling in Great Britain. It is enforced by the Gambling Commission (the Commission). Local authorities are responsible for co-regulation with the Commission but are limited to enforcing their own authorisations or illegal gambling in their areas.

3.2 The Commission is also responsible for issuing operating licences, determining technical specifications for gambling related play (e.g. machines, online games), publishing [statutory Codes of Practice<sup>1</sup>](#) and the [Guidance for Licensing Authorities<sup>2</sup>](#).

3.3 The Act contains three licensing objectives which underpin the functions that the Commission and licensing authorities will perform. These objectives are central to the regulatory regime created by the Act. They are:

- (a) Protecting children and other vulnerable people from being harmed or exploited by gambling.
- (b) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
- (c) Ensuring that gambling is conducted in a fair and open way.

### **The Current Gambling Policy**

3.4 The Council's current Gambling Policy has been effective since the introduction of the Gambling Act in 2007. However, the policy has limited criteria and considerations associated with each of the gambling premises licence uses. Whilst this policy approach has provided the Licensing Sub-Committee with a wide scope when considering applications, it is felt that it does not provide the key expectations that the Council expects from applicants.

3.5 The gambling sector has gone through a significant shift in the past 3 years since the policy was last revised. The prevalence of betting shops and the impact of the stake, prize and game play of B2 gaming machines (also known as fixed odds betting terminals) in these premises were of significant concern. However, in 2019, following significant pressure and lobbying the government amended the Gambling Act to reduce the maximum stake of B2 gaming Machines from £100 to £2. Following that change there has been a significant reduction in the number of betting shops within the City. When the current policy was adopted in 2019, there were 94 betting shops within Westminster.

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<sup>1</sup> <https://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/LCCP/Licence-conditions-and-codes-of-practice.aspx>

<sup>2</sup> <https://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

Today there are 55 betting shops, which is a reduction of 39 premises (41% of all betting premises) in the past two and a half years.

- 3.6 Since the change in the Act and the reduction in betting shops within Westminster there has been growing interest in empty betting shop units from gambling operators who wish to open bingo or adult gaming centres. These premises provide a significant number of category B3 gaming machines. The B3 machines operate in a similar way to B2 gaming machines and have the same stake (£2) and prize (£500). There has been growing concern about the potential impact of these premises on the area in which they are located. Recent licence applications have highlighted these concerns, particularly relating to the large number of machines made available for use and the potential impact on vulnerable people in the area. However, due to the requirements of the Act and the presumption in favour of gambling applications there has been insufficient grounds to refuse such applications.
- 3.7 Although it is extremely difficult to refuse gambling applications due to the presumption in favour of the applicant the Gambling Policy is a key factor in the consideration of such applications. We now have an opportunity to strengthen the current Gambling Policy to provide greater clarity on the Council's expectations on gambling operators wishing to operate within Westminster. A similar approach to that taken within the recent revision of the Licensing Policy could be adopted where there are specific areas of concerns. In the Licensing Policy Special Consideration Zones were adopted with an associated policy that required applicants to demonstrate that they have considered the local area and set out how their operation will not adversely impact or exacerbate the issues of concern in that area.

### **New Local Area Profile**

- 3.8 To enable the inclusion of spatial policies, similar to the approach taken in the Licensing Policy for Special Consideration Zones, the Council needs to develop a picture of the City and the areas where there is greater risk of harm from gambling premises. It is intended to produce a Local Area Profile for our new Gambling Policy to highlight these areas. This profile will not form part of the Policy itself and will stand alone. The Local Area Profile will operate in a similar way to the Cumulative Impact Assessment document that has been produced for the Licensing Policy under the Licensing Act 2003. Having the Local Area Profile separate from the Gambling Policy will enable the Council to update it outside of the statutory framework for revisions and adoption for the Gambling Policy.
- 3.9 In 2015, Westminster City Council and Manchester City Council partnered to commission specific research on gambling related harm and how a gambling harm risk index could be developed. This was the first time that a local authority had undertaken specific research in this area to identify the risk to local people. This work was completed in 2016. The subsequent gambling harm risk index combined a number of data sets relating to different groups who were identified as being at risk to gambling related harm. Using the data at the time it was possible to establish where these groups lived and worked

within the City. Unfortunately, it is not possible to update the data sets behind this index before the policy must be readopted. The data that was used for this index is now over 7 years old and the new data, such as the census information, which is critical in the development of the index will not be available until 2022.

3.10 It is proposed to develop a Local Area Profile that will provide information rather than a risk index that will assist applicants, responsible authorities and residents to consider the potential impact of the gambling operation on the local population and area. This document will attempt to combine a number of data sets based on people and location that will be used to highlight areas that should have special consideration by applicants when making an application.

3.11 The Gambling Commission’s Guidance to Licensing Authorities supports the development of Local Area Profiles and their use to aide applicants in completing their gambling risk assessment. They set out within the guidance a number of perceived benefits for local authorities if they develop and include a Local Area Profile alongside their policy. The benefits of a Local Area Profile are:

- enabling licensing authorities to better serve their local community, by better reflecting the community and the risks within it
- greater clarity for operators as to the relevant factors in licensing authority decision making which will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application
- enabling licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge
- encouraging a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

3.12 The Council already has a good understanding of the local risks and areas of concern from the 2015/16 research and gambling harm index. However, to develop the Local Area Profile we will be looking to identify current data sets that relate to people and the area in which they live. These data sets may include:

<b>People</b>	<b>Location</b>
Ethnicity	Schools, universities, and other educational establishments
Age	Hostels, supported housing
Homeless people	Crime levels and locations
People with drug dependency/misuse	Licensed gambling premises
People with learning disabilities/difficulties	Gambling Treatment Centres
People living in deprived areas	Alcohol and Drug Treatment Centres
Unemployment and income	Food Banks

deprivation	
People with gambling problems	Job Centres
Young people and students	Free school meals
Veterans	Pharmacies providing drug support
People who have personality/cognitive impairments	Youth Centres
People with mental health problems	Money lenders and Pawnbrokers

### **Proposed Revisions within the Gambling Policy**

3.13 It is intended to change the structure of the Gambling Policy and effectively redraft a new version. The revised or new policy could closely resemble the approach taken with the recent Licensing Policy revision. A greater emphasis will be given to setting the considerations, criteria and expectations that applicants will need to meet.

### **Licensing Objectives Policies**

3.14 The policies associated with the three licensing objectives will be strengthened. We will look to include a significant number of considerations that applicants are expected to address as part of their application. If applicants do not address these specific points, then a responsible authority or a resident can highlight this in their representation against the application. This would require the applicant to address why they have not considered it either before or during a hearing. Applications that fail to consider the key elements of the licensing objectives policy may not be reasonably consistent with these objectives and it could be refused.

### **Spatial Policy**

3.15 The new revised policy will include a new spatial policy that will replicate the approach taken for Special Consideration Zones within the Licensing Policy. It is intended to identify areas from the Local Area Profile where there is a combination of factors that would provide a greater concern and risk if a gambling operation was to open without sufficient mitigation. The policy will require applicants to demonstrate, via their Gambling Risk Assessments, that they have considered the local issues identified within the Local Area Profile and put forward sufficient mitigation that they believe would address any concerns and reduce or remove any negative impacts. The risk assessment would be scrutinised by residents, responsible authorities and if the application was opposed the Licensing Sub-Committee when determining the application.

### **Risk Assessment Policy**

3.16 To ensure that applicants provide a sufficient Gambling Risk Assessment it is intended to create a specific policy setting out the expectations for undertaking and considering risks associated with the operation of the gambling premises. The Council has provided separate guidance on the risk assessment process for gambling operators, but we now intend to include this within the policy. This new risk assessment and spatial policies will ensure that sufficient

consideration is given on the operation and potential impact of their gambling premises. If applicants fail to provide a sufficient risk assessment with adequate mitigation the policy will enable the Licensing Authority to impose conditions that would address these local issues or refuse the application.

### Premises Use Policies

3.17 The Gambling Act, helpfully categorises each gambling operation into specific types of gambling premises licences. The current policy has a section for each of these premises use types. It is intended to set out the key policy considerations at the front of each premises use policy similar to the approach in the Licensing Policy. Each policy will provide far more detail in the key considerations and criteria expected of applicants within Westminster. This will be linked to the risk assessment and spatial policy requirements.

### Consultation and Governance

3.18 The Gambling Act sets out a statutory requirement on the consideration, consultation, and adoption of the Gambling Policy. The final revised policy must be adopted by Full Council and it must be in place before the expiry of the current Gambling Policy, 30<sup>th</sup> January 2022. To achieve the statutory requirement and meet the Council’s Full Council meeting cycle the following indicative governance timetable has been produced setting out the key meeting and event dates.

<b>Key Event or Meeting</b>	<b>Date</b>
Start Consultation (8 weeks)	9 <sup>th</sup> August
End Consultation	3 <sup>rd</sup> October
Cabinet Member Decision	No later than 24 <sup>th</sup> October
Full Council	10 <sup>th</sup> November
New Policy comes into effect	31 <sup>st</sup> January 2022

6.2 It is acknowledged that the consultation period will commence during the summer period. However, the consultation period will run for 8 weeks which will enable stakeholders sufficient time to consider the proposals after the summer holiday period.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact Kerry Simpkin**  
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### **BACKGROUND PAPERS**

[Westminster City Council Statement of Gambling Principles 2019-2022<sup>3</sup>](#)

<sup>3</sup>[https://www.westminster.gov.uk/sites/default/files/media/documents/statement\\_of\\_gambling\\_principles\\_-\\_october\\_2018.pdf](https://www.westminster.gov.uk/sites/default/files/media/documents/statement_of_gambling_principles_-_october_2018.pdf)