LONDON BOROUGH OF NEWHAM

CABINET

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Meeting</td>
<td>7th May 2009</td>
</tr>
</tbody>
</table>
| Lead Officer and contact details | John Newcombe  
Team Leader (Trading Standards & Licensing)  
0203 373 7605 john.newcombe@newham.gov.uk |
| Director, Job title | Sheila Roberts  
Interim Director of Commissioning - Enforcement & Safety  
Sheila.roberts@newham.gov.uk |
| Lead Member | Cllr Neil Wilson – Chair of the Licensing Committee |
| Key Decision? | Yes  
Reasons: Affects two or more wards |
| Exempt information & Grounds | No  
Grounds: N/A |
| Wards Affected | All |
| Appendices (if any) | A. Revised Draft Statement of Gambling Licensing Policy 2019-22 (Final)  
B. Map showing locations of gambling premises within the borough  
C. Responses to consultation  
D. Letter to Gosschalks Solicitors from the Licensing Team Leader  
E. Equalities Impact Assessment |

1 Executive Summary

1.1 The Gambling Act 2005 currently requires licensing authorities to publish at least every three years a Statement of their Licensing Policy (Gambling). Applications for licences under the Gambling Act 2005 have to be made in accordance with the licensing authority’s Licensing Policy (Gambling) and the Regulations made under the 2005 Act. The Council’s first Policy came into force on 31 January 2007 and following a statutory consultation and review the current policy came into force on 31 January 2016.

1.2 This report relates to the phased process in which approval is sought for the re-adoption of the existing Policy with minor additions and amendments as set out in this report. Following public consultation, the policy must be approved by Cabinet and then adopted by full Council.
1.3 A public consultation exercise has been conducted which resulted in four responses. Further details of this is set out from paragraph 3.9 onwards. On 19th March 2019 Members of the full Licensing Committee considered the responses and approved the proposed changes to the draft policy.

1.4 Set out at Appendix A to this report is the proposed final version of the Council’s Statement of Gambling Policy which has been updated to include a number of suggested revisions made in response to the feedback received as part of the consultation process. To fulfil the Council’s statutory duties, it is recommended that Cabinet recommends to Full Council that the Statement of Gambling Policy as set out in Appendix A is formally adopted to take effect at the Full Council Meeting on the 16th May 2019. The Policy will then be published following this meeting.

2. Recommendations

2.1 That Cabinet agrees and recommends to full Council the adoption of the final version of the Council’s Statement of Gambling Policy attached as Appendix A and it is published immediately following the full Council meeting.

3 Background

3.1 There have been a number of significant changes since the current policy was adopted in 2016; The Gambling Commission have included a new requirement, within the Codes of Practice for gambling operators to conduct risk assessments for each of their premises taking into account the individual circumstances of each local area. The Government has also provisionally agreed to reduce the maximum stakes on Fixed Odds Betting Terminals (FOBT’s), following lobbying from the London Borough of Newham and other parties.

3.2 The Borough has seen a significant reduction in the number of betting shops in this period from a peak of 84 in December 2016 to the current level of 74. When the reduced stakes and prizes for Category B2 machines comes into force it is anticipated that the number of betting shops will reduce further. A map showing the locations of all of the Gambling Premises within the Borough is included at Appendix B.

3.3 The requirement to conduct local risk assessments will ensure that operators take into account local needs and pressures and put mitigation measures in place to address those individual circumstances particularly in terms of the licensing objective of the protection of the young and vulnerable. The revised policy gives significant detail as to the types of circumstances and risks that should be considered and addressed where appropriate and should help to ensure that gambling premises operating within the Borough do not have a significant adverse impact on the locality or contribute significantly to the levels of anti-social behaviour and other issues that can sometimes be related to licensed premises.
3.4 There is a potential cost implication arising from the risk assessment process for operators in terms of completing the risk assessments themselves and of putting into place the control and mitigation measures to alleviate the risks identified. The licensing authority expects operators to conduct full and comprehensive assessments for each of the premises within the Borough as laid out within the Codes of Practice.

3.5 The revised policy has therefore been redrafted to take into account the changes since the last policy was consulted on and includes the following amendments:

3.6 Addition of section on local risk assessments (page 12).

From 6 April 2016, it has been a requirement of the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the policy and in the local area plan.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

a. to take account of significant changes in local circumstance, including those identified in this policy;
b. when there are significant changes at a licensee’s premises that may affect their mitigation of local risks;
c. when applying for a variation of a premises licence; and
d. in any case, undertake a local risk assessment when applying for a new premises licence.

3.7 Addition of section on local area profiles (page 14)

The licensing authority has commissioned a local area profile to be completed, however due to a number of delays; this will not be available until the revised policy is issued. A draft copy of the Local Area profile will be circulated to Members of the licensing committee prior to the publication of the policy as soon as is practicable. The local area profile will be published and made available to all relevant persons, including Gambling Operators within the Borough. The Local Area Profile will assist those operators with premises in the Borough to ensure that they have fully taken into account local issues within their risk assessments.

3.8 Addition of section on access to premises (page 29) and additional guidance on Prize Gaming Permits and Gaming Machine Permits for Clubs (page 34)

3.9 The Draft Gambling Policy 2019-2022 was published as part of the consultation process on 5th November 2018 and the consultation period expired on 31 December 2018. The main methods of consultation were;
• Newspaper notice in the Newham Recorder
• Advert placed on the Newham Council’s website
• Draft Policy available at Libraries, Local Service Centres and the offices of the Licensing Team
• Emails to all Councillors, the Mayor, Young Mayor, and MPs
• Internal consultation process to relevant officers and Corporate Management Team
• Letters to all gambling/gaming licence holders and trade representative bodies
• Letters to the Metropolitan Police, Gambling Commission, Primary Care Trust, and neighbouring Councils.
• Letters to all Gambling charities and organisations who assist problem gamblers.
• Letters to all Head teachers of schools located within the Borough
• The Gambling Commission.

3.10 A total of four responses were received from the following respondents;

• Gosschalks Solicitors representing the Association of British Bookmakers (ABB)
• Moneyworks
• Betknowmore
• Gamcare

3.11 Copies of the responses are attached at Appendix C to this report.

3.12 The Licensing Team Leader prepared a written response to Gosschalks Solicitors addressing the recommendations set out in their response and this is attached at Appendix D.

3.13 Following consideration of the responses received, a number of suggested amendments were made to the draft policy and these were considered by the full Licensing Committee and subsequently approved.

The proposed amendments are;

Amendment to the wording in section 10.3;
From; The Council will expect the local risk assessment to consider the urban setting:
To; The local risk assessment should consider the urban setting:

Additional bullet point in section 10.4;
Arrangements in place to signpost vulnerable customers to relevant support organisations.

3.14 Council are asked to therefore agree the adoption of the revised Statement of Gambling Policy 2109-22 as recommended by the Licensing Committee.
4 Key Considerations & Proposals

4.1 The review of the policy is a Statutory Requirement under the provisions of the Gambling Act 2005 and failure to comply could lead to adverse publicity and possible action against the authority instigated by the relevant Government Department. The existing policy ceased to have effect at the end of January 2019 and the Licensing Authority has been cognisant of the need to ensure that any decisions relating to applications and/or enforcement can only be made where it is no bound to do so in accordance with the policy. Since January 2019 there have been no new applications for gambling premises licences or any reviews submitted and it is not envisaged any will arise prior to the adoption of the new policy at full Council.

5 Policy Implications & Corporate Priorities

5.1 The Council is committed to doing everything within its powers to reduce gambling related harm. The statement of gambling licencing policy seeks to ensure that gambling premises operating within the borough operate responsibly and that protections are put in place to protect residents from anti-social behaviour and other issues related to licensed premises, in particular high-street licenced betting offices.

5.2 The Statement of Gambling Policy complements the Council’s long-running campaign to reduce the maximum stake on please say in full FOBTs. The proliferation of on-street betting outlets in the borough is an issue of serious concern for local residents due to the impact on the vitality of Newham’s high streets and the increased anti-social behaviour and crime associated with clustering in one locality.

6 Alternatives considered

6.1 N/A

7 Consultation

7.1 Name of Lead Member consulted: Councillor Neil Wilson Position: Chair of the Licensing Committee Date: 19 October 2018 & 12 February 2019

8 Implications

8.1 Financial Implications

8.1.1 Potential service financial liabilities present themselves if a licence is rejected and the applicant appeals to the Magistrates Court. The Council’s costs including any awarded against it will need to be met from annual revenue budget of the Licensing Service in the Enforcement and Safety Directorate.

8.1.2 Residents, local businesses and responsible authorities can also appeal to the Magistrates Court against any licences awarded, provided that they have made valid representations during the consultation period. As stated above,
any costs liability will need to be met from the budget of the Licensing Service in the Enforcement and Safety Directorate.

8.1.3 The maximum fees that can be charged for licence applications etc. have been fixed by central government with the intention that they cover the cost of the licensing regime. There are no other financial implications arising from the adoption of the new Statement of Gambling Policy.

8.2 Legal Implications

8.2.1 Section 349 of the Gambling Act 2005 imposes a statutory requirement on the Council (as the Licensing Authority) to prepare and publish a 'Statement of Principles' (which is in effect the Council's Statement of Gambling Policy as referred to in this report) once every three years. Following public consultation any amendments to the Policy are required to be considered at Cabinet and then approved by full Council. Section 349 (2) of the Gambling Act 2005 allows the Licensing Authority to review its Statement/Policy from time to time if it is deemed necessary. If it is revised further following that review, the revised version must be formally considered and approved by full Council, and then published by the Council. The Statement of Gambling Policy attached as Appendix A has been revised under section 349 (2). This will be formally adopted subject to any further comments received. The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 sets out the legal requirement and procedure for drafting and preparing the Statement/Policy and any revisions to this.

8.2.2 The Council’s existing policy expired in January 2019. Should the Licensing Authority decide to make any decision in which it is required to act in accordance with the policy after it has expired, there is potentially a risk of legal challenge. However since the Licensing Authority has confirmed no new applications or reviews of premises licences have taken place since January 2019 and nor it is envisaged this will be the case ahead of the new policy being adopted by Full Council in May 2019 (subject to Cabinet approval) the risk is very minimal.

8.3 Equalities Implications

8.3.1 The scope of the Policy is something that has been clearly and prescriptively set out both in The Gambling Act 2005 and to a large extent in the Guidance issued by the Gambling Commission. The licensing objectives are the only criteria upon which licensing decisions can be made.

8.3.2 There is provision under the Act to protect children and vulnerable people and this includes people who gamble beyond their means or who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs. Provision for the protection of such persons has been included in the Policy in accordance with the Gambling Act.
8.3.3 The Policy allows, as far as the law permits, that proximity to schools, youth and community centres will be taken into account when making licensing decisions.

8.3.4 There are certain parts of the community who may wish to object to gambling for religious and moral reasons. However, under the Act, such considerations cannot be taken into account.

8.3.5 The Policy makes provision for the protection of children in accordance with the statutory stipulations. These are that children must not be allowed access to certain types of gambling/gaming premises and may not use certain types of gaming machines.

8.3.6 There is a right of appeal to the Magistrate’s Court in respect of decisions made by the licensing authority. This ensures that an applicant’s right to a fair hearing (article 6 of the convention) is protected.

8.3.7 It is considered that the proposed revisions to the Statement of Gambling Policy will have a positive effect on the Borough, and will enhance existing protections for vulnerable groups such as those suffering with gambling addictions, young persons and residents and businesses that suffer from the proliferation of gambling premises in some parts of the Borough.

8.3.8 The risk assessment process is intended to assist operators in ensuring that both new and existing premises do not have a significant adverse effect on the locality in which they operate and are designed and operated to take into account vulnerable groups who may be affected by gambling premises operations.

8.3.9 An Equalities Impact Assessment has been completed and is included within the report at Appendix E.

8.4 Other implications relevant to this report:

8.4.1 Not Applicable

9 Background Information used in the preparation of this report