

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARD:</b> All
<b>REPORT TITLE:</b> Camden’s Statement of Licensing Policy 2023 – 2026 under the Gambling Act 2005	
<b>REPORT OF:</b> Director of Public Safety	
<b>FOR SUBMISSION TO:</b> Licensing Committee Council	<b>DATE:</b> 03 May 2023 17 July 2023
<p><b>SUMMARY OF REPORT</b></p> <p>This report sets out the purpose of Camden’s Statement of Licensing Policy 2023 - 2026 (the Policy) under the Gambling Act 2005 and explains the process the Council has followed to review and amend the current Policy.</p> <p>This report informs the Licensing Committee of the responses to the statutory 12-week consultation and, proposes a number of changes to the current Policy having considered these responses.</p> <p>The report presents the draft Policy at Appendix 1 and asks the Licensing Committee to consider, comment and recommend that the Council approve and adopt the revised Policy for publication.</p>	
<p><b>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION</b></p> <p>The following documents were used in the preparation of this report:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Gambling Act 2005</a></li> <li>2. <a href="#">Guidance to licensing authorities issued by the Gambling Commission under section 25 of Gambling Act 2005</a></li> <li>3. <a href="#">Camden’s Statement of Licensing Policy 2018–2021</a></li> <li>4. <a href="#">Camden’s Local Area Profile under the Gambling Act 2005</a></li> </ol>	
<p><b>Contact Officer:</b> William Sasu Public Protection and Licensing Manager 5 Pancras Square N1C 4AG Email: <a href="mailto:william.sasu@camden.gov.uk">william.sasu@camden.gov.uk</a></p>	
<p><b>RECOMMENDATION</b></p> <p>That the Licensing Committee:</p>	

- i) Consider and note the consultation responses to the proposed Statement of Gambling Policy.
- ii) Recommend the Council to approve and adopt the Statement of Gambling Policy 2023-2026.

That Council:

- i) Approves and adopts the Statement of Gambling Policy 2023-2026 for publication.

Signed:

A handwritten signature in black ink, consisting of a stylized initial 'J' followed by a long horizontal line.

Date: 20<sup>th</sup> April 2023

## **1. PURPOSE OF THE REPORT**

- 1.1. The Council has powers under the Gambling Act 2005 (the Act) to regulate some gambling activity in Camden. The Act divides responsibility for gambling between the Gambling Commission and local authorities. The Commission is responsible for regulating commercial gambling, and issues of national importance including online gambling, and the Council is responsible for local regulation of premises licences and low-level gaming permits.
- 1.2. The Gambling commission are carrying out expansive work to tackle online gambling issues by ensuring operators have adequate systems to identify groups or individuals at risk of experiencing gambling related harm.
- 1.3. The Council must carry out its licensing functions in accordance with the Act, the Gambling Commission's Guidance to Licensing Authorities (GLA) and its adopted Statement of Licensing Policy under the Gambling Act 2005 (the Policy) with a view to promoting the three statutory licensing objectives:
  - a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - b) ensuring that gambling is conducted in a fair and open way; and
  - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4. The Policy ensures that the Council has effective and appropriate licensing strategies that respond to the borough's unique characteristics while helping to deliver the Camden Plan objectives of creating conditions for and harnessing the benefits of economic growth and investing in our communities to ensure sustainable neighbourhoods.
- 1.5. The Policy plays an important role in the Council's duty to manage the risk of gambling-related harm in Camden and to regulate gambling activity to mitigate the risk of such harm. However, Members are asked to note that the extent of the Council's powers under the Act are limited, for example, the Council cannot control the maximum value of the stakes or prizes for gaming machines in betting shops and cannot prevent television advertising in relation to gambling. These limitations are set out in the Policy.
- 1.6. The Licensing Committee carries out the Council's functions under the Act and oversees any review and development of the Policy, but the Council must approve, adopt and publish the Policy before it can take effect.

## **2. BACKGROUND**

- 2.1. The Council is required to publish a Statement of Licensing Policy under the Gambling Act 2005, which sets out its general approach to how it will regulate gambling activities.

This helps maintain consistency, builds public confidence and assists in meeting the Council's key strategic objectives.

- 2.2. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance helps gambling businesses and operators to develop successfully whilst providing assurance to the public that premises are monitored and properly regulated. This assists in the Council's strategic priorities by supporting business and maintaining the safety and wellbeing of its residents.
- 2.3. The Council must determine and publish its Policy every three years, however during each three-year period, the Council must keep its Policy under review and make revisions, as it considers appropriate. If it makes revisions, the Council must consult on any changes before approving, adopting and publishing an amended Policy.
- 2.4. In December 2022, the Licensing Committee considered proposed amendments to the existing Policy and agreed a public consultation for a period of 12 weeks on the proposed amendments. Details of the statutory consultation are set out in Section 3 below.
- 2.5. The Licensing Committee is asked to consider the responses to the statutory consultation at **Appendix 3** and the summary of proposed changes to the draft Policy at **Appendix 4**, comment on, and agree the revised draft Statement of Licensing Policy under the Gambling Act 2023-2026 at **Appendix 1** and local area profile LAP at **Appendix 2** for referral to Cabinet and on to Council for approval and adoption.

### **3. CONSULTATION**

- 3.1. The Council conducted a statutory consultation on the draft Policy, which ran for 12 weeks, from 23 December 2022 until 17 March 2023.
- 3.2. The Council consulted all statutory consultees; under s349(3) of the Act, the Police, organisations that represent the interest of persons carrying on gambling businesses in Camden and organisations that represent the interest of persons who are likely to be affected by gambling. The Council also extended the consultation to 630 other key stakeholders to include faith groups, ethnic group associations, neighbouring licensing authorities, relevant Council teams, the Mayor's Office for Policing and Crime, all Ward Councillors, all responsible authorities under the Licensing Act 2003, and the Community Safety Partnership Board.
- 3.3. Officers also published a notice in the Camden New Journal on 22 December 2022 and news items on the Council's website.
- 3.4. The Council received one response to the consultation from a resident's association. The response supports the proposed changes to the Policy as agreed by the Licensing Committee in December 2022.

#### **4. OPTIONS**

4.1. There are two options to consider:

Option 1: Do nothing. The current Policy will expire, and the council will be in breach of its statutory duty

Option 2: Agree, adopt and publish a new Policy. The Council has completed the comprehensive review that has informed the development of the draft Policy at **Appendix 1** and LAP at **Appendix 2**.

4.2. The recommended option is Option 2.

#### **5. WHAT ARE THE REASONS FOR THE RECOMMENDED DECISIONS?**

5.1. The existing Policy has been a robust tool used by the Council in the decision-making process for gambling activity, but it needs updating to ensure that it continues to reflect current law, national guidance and local concerns in the context of the Camden Plan. Approving a revised Policy and LAP that are up to date and appropriate for Camden, will enable the Council to continue to carry out its licensing functions.

5.2. Officers do not regard Option 1 to be viable, as over time the Policy, will become outdated and the Council may be unable to rely on it to carry out its licensing functions under the Act.

#### **6. WHAT ARE THE KEY IMPACTS/RISKS? HOW WILL THEY BE ADDRESSED**

6.1. If the Council does not approve a revised Policy, the key risk is that in the future, the Council would not be able to base its decisions on up-to-date evidence when carrying out its legal functions under the Act. The Council can eliminate this risk by approving the draft revised Policy.

6.2. An outdated Policy would hinder the way that the gambling trade operates, with potential negative impacts for local communities and residents.

6.3. Officers have had regard to the Council's equality duty when developing the Policy. The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, sex, and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers. The Committee must be mindful of this duty among other things, when determining all licensing applications. In particular the Committee must pay due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.4. Officers have assessed the proposed changes to the draft Policy in terms of its impact upon those duties. The equalities impact assessment (EIA) at **Appendix 5** did not highlight any areas where the introduction of the Policy would raise issues of inequalities or place anyone with a protected characteristic at a disadvantage. Members should have due regard to the EIA when determining the Policy.

6.5. Officers have considered whether the licensing policy could be a vehicle to advance opportunity and foster good relations between those with protected characteristics. In this instance, they were unable to find ways to use the Policy in this way however, officers will keep this under review.

## **7. WHAT ACTIONS WILL BE TAKEN FOLLOWING THE DECISION AND HOW WILL THIS BE MONITORED?**

7.1. Following the decision of Council, and if approval is given, officers will publish the revised Policy by making it available on Camden's website and will place a public notice in the Camden New Journal.

7.2. If approved, the revised Policy will come into effect 4 weeks after publication of the public notice.

## **8. LINKS TO THE CAMDEN PLAN OBJECTIVES**

8.1. The Council is required to publish a Statement of Licensing Policy, which sets its general approach to how it will regulate gambling activities. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance will help businesses to develop successfully whilst providing assurance to the public. This helps to promote the Camden Plan objective of creating conditions for and harnessing the benefits of economic growth.

8.2. The Policy seeks to manage the risk of gambling-related harm in Camden and to regulate gambling activity to mitigate the risk of such harm. The Policy has a strong focus on keeping children and other vulnerable residents safe from gambling-related harm and promotes the Camden Plan objective of investing in our communities to ensure sustainable neighbourhoods.

8.3. It is envisaged that the robust inspection and monitoring regime put in place would ensure that gambling venues/businesses comply with the relevant requirements of the regulations and align with the policies relating to vulnerable individuals.

## **9. LEGAL COMMENTS FROM THE BOROUGH SOLICITOR**

9.1. The Borough Solicitor has been consulted and legal comments have been incorporated in this report.

9.2. Before it approves and adopts its Policy, the Council must consult those persons listed in section 349(3) of the Act. These are:

- a) the chief officer of police for the area
- b) persons or bodies who represent the interests of local gambling businesses in the area
- c) persons or bodies who represent businesses and residents in its area who are likely to be affected by the Council exercising its functions under the Act.

9.3. The views of all these persons or bodies should be given appropriate weight when the policy is determined.

9.4. The Policy is a non-statutory licensing policy. It provides a set of presumptions and guidelines for the determination of individual cases, but each case will still be decided on its merits.

9.5. However, it is considered helpful to have a policy to promote certainty amongst local residents and businesses and consistency of decision making.

9.6. Before it approves and adopts its Policy, the views of all those who have responded to the consultations should be given appropriate weight when the policy is determined.

9.7. When formulating policy local authorities must have regard to the Equality Act 2010. The Act provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers.

### **The section 149 Public Sector Equality Duty**

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to — (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to — (a) tackle prejudice, and (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

9.8. In determining any policy, the Council must comply with the public sector equality duty in s.149 of the 2010 Act.

9.9. This is a duty to have regard to the need to achieve the statutory goals of s.149, rather than to achieve a particular result. The s149 duty sits alongside and does not override statutory requirements in relation to determining this policy.

9.10. When Members have before them material on issues relevant to s149, such material must be specifically assessed in the context of s149. However, because s149 creates a requirement to “have regard” the fact a matter raised is relevant to s149 will not



automatically translate into a reason for refusing an application that would be sustainable in any subsequent appeal, given the legal requirement to determine applications in compliance with legislation.

- 9.11. Officers have had these requirements in mind when developing the Policy and details are contained within the attached EIA at **Appendix 5** to which members should have regard.

## **10. FINANCE COMMENTS OF THE EXECUTIVE DIRECTOR CORPORATE SERVICES**

- 10.1. Publication of the revised draft Policy will be progressed through existing resources.

## **11. ENVIRONMENTAL IMPLICATIONS**

- 11.1. There are no environmental implications arising from the report.

## **12. APPENDICES**

- Appendix 1: Camden's Draft Statement of Licensing Policy 2023-2026 under the Gambling Act 2005  
Appendix 2: Local Area Profile  
Appendix 3: Responses to the statutory consultation  
Appendix 4: Summary of proposed changes to the Policy  
Appendix 5: Equalities Impact Assessment

**REPORT ENDS**