



Report of the Cabinet Member for Delivery & Operations

Council – 2 December 2021

Review of the Gambling Policy

Purpose:	To consider the proposed amendments to the Gambling Policy.
Policy Framework:	The City and County of Swansea, Statement of Principles, Gambling Act 2005. (The Gambling Policy)
Consultation:	Extensive consultation on the proposed amendments to the policy has been undertaken involving representatives of persons carrying on gambling businesses, statutory bodies, representatives of interested parties and City and County of Swansea Members. Legal, Finance, Access to Services have also been consulted in respect of this report.
Recommendation(s):	It is recommended that: 1) The proposed amendments to the Policy are approved and the revised policy attached at Appendix B is adopted.
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1.0 Introduction

- 1.1 The Gambling Act 2005 (the Act) requires the City and County of Swansea, as the Licensing Authority, to review its Statement of Principles under the Gambling Act 2005, (Gambling Policy), every three years.

- 1.2 The current Gambling Policy was adopted at Council on 20th December 2018 and came into effect on the 31st January 2019.
- 1.3 The reviewed Policy must be issued for consultation and adopted by Council before publication. The Policy must be published at least 4 weeks before it comes into effect on the 31st January 2022.

2.0 The Gambling Policy

- 2.1 The Gambling Policy must comply with the requirements of the Act. Account should also be taken of guidance issued by the Gambling Commission (The Guidance).
- 2.2 The Guidance was first issued in April 2006 and has subsequently been revised. The latest version was updated in May 2021.

3.0 The Consultation

- 3.1 Extensive consultation on the proposed amendments to the policy has been undertaken involving representatives of persons carrying on gambling businesses, statutory bodies, representatives of interested parties and City and County of Swansea Members.
- 3.2 The consultation period ended on the 8th October 2021 and one response was received. This was from Gosschalks Solicitors, acting for the Betting and Gaming Council. A copy of the response is attached at Appendix A.

4.0 The Response

- 4.1 The response from Gosschalks Solicitors confirms that the response is submitted on behalf of the Betting and Gaming Council (BGC), details their role as the standards body for the UK's regulated betting and gaming industry, their mission and objectives, summarises betting and gaming in the UK and problem gambling. The response also explains the BGC approach to partnership working with local authorities, its views on the differentiation between Licensing Act 2003 and Gambling Act 2005 applications and also makes specific comments on the amended Policy.
- 4.2 The specific comments in respect of the amended Policy relate to paragraphs 12.2, 15.2 (incorrectly referenced as paragraph 15.3), 40.3 and 40.4.
- 4.3 In respect of paragraph 12.2, which refers to the mandatory and default conditions and the ability of the Licensing Authority to attach conditions where it is appropriate. The response states that *"this section would be assisted by a clear explanation that the mandatory and default conditions that attach to all premises licences are intended to be sufficient to ensure operation that is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be*

considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case and that risk is not adequately addressed by the policies, procedures and mitigation measures proposed by the applicant in the local risk assessment submitted alongside the application.

4.4 In respect of paragraph 15.2, the response suggests that this paragraph is removed from the policy and states *“This refers to the potential for a policy “as regards areas where gambling premises should not be located.” The use/mix of use of premises in an area is a matter for the planning authority and as paragraph 17 recognises, the Licensing Authority, “will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning.” Any policy of the Licensing Authority with regard to areas where gambling premises should not be located is likely to be unlawful and is certainly contrary to the “aim to permit” principle contained within Section 153 Gambling Act 2005.”*

4.5 In respect of paragraph 40 the response states *“Paragraph 40.3 (under the heading “Risk Assessments”) gives a list of examples of matters that the licensing authority recommends operators take into account when making their risk assessment. This list should be redrafted to exclude matters that are not relevant to an assessment of risk to the licensing objectives. For example, “The location of premises in relation to problems of anti-social behaviour, youth crime, graffiti/tagging, street/underage drinking, disorder, drug dealing activities etc.” should be removed as none of these issues have any relevance to an assessment of risk to the licensing objectives.*

Similarly, “Patterns in gambling e.g. coincide with benefit payments, salary payments” should be removed unless it is the Licensing Authority’s view that any person in receipt of benefits or paid employment is either vulnerable or their gambling is likely to be a source of crime and disorder, associated with crime or disorder or being used to support crime.

4.6 In respect of paragraph 40.4, relating to other issues that may be considered by operators when carrying out their risk assessment, it is suggested that reference to matters of faith is removed from the policy.

5.0 Officer Observations

5.1 The information contained within the response received has been considered by Officers and the following observations are made.

5.2 The comments provided in response to paragraph 12.2 are noted and paragraph 12.2 has been amended to include wording to clarify that the authority will attach other conditions, where it is believed to be appropriate to mitigate risks associated with a particular premises.

- 5.3 The comments provided regarding the removal of paragraph 15.2 are noted. The Statutory Guidance issued by the Gambling Commission Guidance allows local authorities to include in their policy, comment on location of premises and the general principles they will apply when considering the location of gambling premises, so far as it relates to the licensing objectives. The policy must also be clear that each case will be decided on its merits. In view of this, no amendments are proposed regarding paragraph 15.2. It should also be noted that there are currently no proposals to include a specific policy regarding the location of gambling premises and any future changes would be the subject to a statutory consultation.
- 5.4 Paragraph 40.3 is included to assist operators in being able to better understand their local environment and proactively mitigate the risks to the licensing objectives. Officers consider that the matters listed are relevant when considering the risks of gambling in a particular locality and that they should be retained in the policy but accept the matters listed may not be relevant to all premises. In view of this, no amendments to paragraph 40.3 are proposed.
- 5.5 The comments received regarding paragraph 40.4 are noted and it is accepted that the references to “*matters of faith*” should be removed from the policy but that the reference to building used for religious purposes is retained.

6.0 Proposed Changes to the Policy

- 6.1 Officers have undertaken a full review of the policy in accordance with the current guidance. A copy of the draft of the revised Policy is attached at Appendix B to this report. The changes proposed are identified in bold italics and any text to be removed is shown by striking through.
- 6.2 The majority of the Policy has not been changed. Where changes have been made, these are to reflect the changes made to The Guidance and also to provide clarification in respect of specific matters.
- 6.3 The main changes proposed are:
- Updated information relating to The Guidance to Licensing Authorities has been inserted (Paragraph 2.4).
 - The data relating to the County’s population and land area has been amended (Paragraph 3.1).
 - SA1 area included (Paragraph 3.2).
 - Specific link for Responsible Authority list included (Paragraph 5.3).

- The paragraph relating to Exchange Of Information has been reworded to include specific and relevant sections of Acts (Paragraph 8.0).
- Additional information has been added in respect of illegally sited machines and enforcement (Paragraphs 9.8 – 9.12).
- The paragraph relating to the no casino resolution has been reworded to include the dates of all previous resolutions (Paragraph 18.1).
- A paragraph has been added stating that Licensed Family Entertainment Centre (FEC) applicants are expected to provide evidence that suitable criminal records checks have been conducted on all staff in employment (Paragraph 27.5).
- A paragraph has been added stating that Unlicensed Family Entertainment Centre (UFEC) applicants are expected to provide evidence that suitable criminal records checks have been conducted on all staff in employment (Paragraph 32.5).
- A paragraph relating to satisfactory measures regarding the supervision of gaming machines in licensed premises has been reworded to include a further suggestion (Paragraph 33.5).
- A paragraph has been added to emphasise that the licensing authority has the discretion to specify the number of permitted gaming machines in an alcohol-licensed premises holding a gaming machine permit (Paragraph 33.10).
- The contact details for the Department for Digital, Culture, Media & Sport have been updated (Paragraph 48.0).
- Removal of “Gambling Commission” from the main list as it is duplicated in the sub section for “Responsible Authorities” (Appendix B - Consultees).
- Insertion of “GambleAware” the new name for Responsibility in Gambling Trust (Appendix B - Consultees).
- Removal of “Permit Holders” and “Premises Licence Holders” (Appendix B - Consultees).
- Removal of “Association of British Bookmakers”, “British Casino Association” and “Casino Operators Association of the UK” and insertion of “Betting and Gaming Council” as this is now the single industry standards body (Appendix B – Consultees).

- Removal of “Permit Holders” and “Premises Licence Holders” (Appendix B - Consultees).

6.4 In addition to the above changes, following receipt of the consultation responses, it is also proposed that the additional amendments detailed below and referred to in paragraphs 5.2 and 5.5 of the report, are included in the policy.

- Inclusion of additional wording to clarify that the authority will attach other conditions, where it is believed to be appropriate to mitigate risks associated with a particular premises (Paragraph 12.2).
- Removal of references to “*matters of faith*” (Paragraph 40.4).

7.0 Integrated Assessment Implications

7.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

7.1.1 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the ‘well-being goals’.

7.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

7.2 An Integrated Impact Assessment (IIA) Screening Form has been completed with the agreed outcome that a full IIA report is not required. The high impact noted for poverty/social exclusion is considered to have a positive impact in line with Council initiatives. The draft Policy was issued for consultation and the IIA screening form reviewed following receipt of the consultation responses with no further amendments required. A copy of the screening form is attached at Appendix C.

8.0 Financial Implications

8.1 There are no financial implications associated with this report.

9.0 Legal Implications

9.1 It is a legal requirement that the Policy is reviewed every three years.

9.2 The Act, statutory guidance and statutory instruments set out requirements regarding the form and content of the Policy.

Background Papers: Gambling Commission guidance to licensing authorities.
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

Appendices:

Appendix A - Response from Gosschalks Solicitors on behalf of the Betting and Gaming Council

Appendix B - Draft Gambling Policy 2022-2025.

Appendix C - Integrated Impact Assessment (IIA) screening form.