

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Full Council

Date: 22/01/2025

Subject: Review of the Statement of Gambling Policy

Report of: Councillor Andrew Jones, Cabinet Member for the Economy

Report author: Adrian Overton, Licensing Team Manager

Responsible Director: Bram Kainth, Executive Director – Place

SUMMARY

The Gambling Act 2005 requires every Council to have a 'Statement of Gambling Policy' which will include information stipulated within the Gambling Commission's statutory Guidance to Licensing Authorities in England and Wales. The Council's 'Statement of Gambling Policy' must undergo a thorough review and public consultation every three years.

It is now time for the London Borough of Hammersmith and Fulham to review its Statement of Gambling Policy (SGP) and undergo a public consultation exercise so that the latest version can be agreed and published at the end of January 2025. This report outlines the changes made to the revised policy and the timetable for consultation.

RECOMMENDATIONS

1. To note that Appendix 8 is not for publication on the basis that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings as set out in paragraph 5 of Schedule 12A of the Local Government Act 1972 (as amended).
 2. That the Council carefully considers and notes the responses to the consultation attached at Appendices 4 and 5.
 3. That the Council approve the revised Statement of Gambling Policy 2025 – 2028 (Appendix 9) and associated Local Area Profile (Appendix 2).
 4. That the Council agrees **to retain** an existing no casino resolution within the Council's Statement of Gambling Policy although this can be withdrawn at any time.
 5. To amend Section 6.9 of the proposed policy in line with the consultation responses.
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Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	<i>A robust Statement of Gambling Policy will help to create a level playing field for operators in the gambling industry and transparency and clarity about guiding principles.</i>
Creating a compassionate council	<i>The Statement of Gambling Policy makes specific reference to those who may be vulnerable such as children or those with a gambling addiction and seeks to reinforce certain safeguards to help protect and prevent them from harm.</i>
Doing things with local residents, not to them	<i>The public statutory consultation will be open to residents to provide their views, which can be taken into account in any revised final policy statement.</i>
Being ruthlessly financially efficient	<i>Fees and charges are reviewed annually and where possible set to recover the costs of application administration and management of licensed gambling premises.</i>
Taking pride in H&F	<i>The Licensing Authority's Statement of Gambling Policy helps to consistently manage gambling premises and to uphold the licensing objective related to preventing gambling being associated, supporting or being a source of crime.</i>
Rising to the challenge of the climate and ecological emergency	<i>The consultation will mainly be carried out electronically to minimise the use of paper, when compared to using a postal process.</i>

Financial Impact

1. There are no significant financial implications resulting from the recommended changes to the Council's Statement of Gambling Policy. The cost of the consultation was minimal and has been contained within the existing revenue budget for the Licensing Service.

Kellie Gooch, Head of Finance (Place), 5 November 2024. Verified by James Newman, Assistant Director – Finance (Deputy s151), 6 November 2024.

Legal Implications

2. The requirement for every Council to have a 'Statement of Gambling Policy' is set out in the Gambling Act 2005 ("the Act"). The Statement of Gambling Policy 2022-2025 forms the Council's framework policy which will help to ensure that licensing decisions comply with legislation and are made fairly and consistently.
3. Under S.349 of the Act the Council's 'Statement of Gambling Policy' must undergo a review and public consultation every three years. The Council's current Statement of Gambling Policy was agreed by the Council in January 2022 as produced, following extensive consultation with licensees, businesses, residents, community groups and partner enforcing agencies. It expires in January 2025 therefore a revised policy has been prepared and has undergone a full consultation process.
4. S.349(3) of the Act requires the Council to consult with the following on their policy statement or any subsequent revision:
 - the chief officer of police for the Borough.
 - one or more persons who appear to Council to represent the interests of persons carrying on gambling businesses in the Borough.
 - one or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise.
5. The Gambling Commission in the formal Guidance to Licensing Authorities, issued under Section 25 of the Act, (as revised in April 2021 and updated in April 2023) provides that the statement of gambling policy should be used to set out the local issues, priorities and risks that inform and underpin its approach and to agree and set out how gambling is to be managed in different parts of the local authority area to deal with local concerns and issues. The updated Guidance provides that the legal duty placed by the Act on both the Commission and licensing authorities is to 'aim to permit' gambling in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives.
6. The Guidance provides that the policy statement is the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. It ensures that operators have sufficient awareness and understanding of the relevant licensing authority's requirements and approach, including its' view on local risks, to help them comply with local gambling regulation. It recommends that it is a matter for licensing authorities to develop their own consultation practices, including the methods for consultation and who they consider it necessary to consult with, which might include consultation with relevant local groups, business and responsible authorities.
7. Under this guidance the Council is required to publish consultation responses usually within 12 weeks of the consultation closing. If a response is not published within 12 weeks, the Council should provide a brief statement on why they have not done so. Consultation documents could be provided on Council's website. The Council has followed and complied with the consultation process.
8. Under S.166 (3) of the Act a no casino resolution must be reviewed every three years from the date when it took effect. The body of the report confirms that it is the Council's intention to keep this resolution in the Statement of Gambling Policy 2022-2025.

9. Section 349 of the Act provides the Council must publish a statement of principles which it proposes to apply when exercising its functions under the Act. The Statement of Gambling Policy 2025-2028 (“SGP”) has been prepared taking into account the revised Guidance issued by the Gambling Commission, the Act and associated regulations.
10. The Licensing Authority has taken Counsel’s advice on the proposed changes and the advice is contained in an exempt appendix.
11. The Council is satisfied that by virtue of Section 153(1) Part 8 of the Act it is lawful for the Council to introduce a recommendation into its revised SGP that the terminal hour for Adult Gaming Centres (AGC’s) should ordinarily be limited to 22:00 and that the Council would require a robust risk assessment from the licence holder should they wish to operate after that time. Furthermore, that any licence holder wishing to operate beyond that time would be expected to agree to employ more than one member of staff after 22:00. The Council have suggested this recommendation to address the problems with crime linked to lone working in such venues, it is noted that it has been supported by the Metropolitan Police in their consultation response. Therefore, the recommendation satisfies the promotion of the Licensing Objectives, specifically preventing gambling from being a source of crime and disorder. It was also pointed out that the latest Guidance to Licensing Authorities issued by the Gambling Commission (last updated 13 May 2021) states clearly that there are no default conditions specific to AGCs.
12. Pursuant to the power contained in section 166 of the Act a Licensing Authority may resolve not to issue casino premises licenses. Section 166(2) of the Act states that in passing a resolution under subsection (1) the Licensing Authority may have regard to any principle or matter. Such a resolution must specify the date on which it takes effect, may be revoked by a further resolution and shall lapse at the end of the period of three years beginning with the date on which takes effect, without prejudice to the ability to pass a new resolution. It is noted that six of the seven consultees supported the retention of the no-casino resolution and the Metropolitan Police stated that they would be supportive of the resolution if the Council saw fit.
13. Should the Council adopt the ‘no casino’ resolution for a further three year period pursuant to the power contained in section 166 of the Act, this decision is one that ultimately calls for a political rather than a strictly legal judgment. The decision must be rational and reasoned, but there must be a balancing exercise applying weight to the different interests which have been identified at paragraph 12 of Key information about re-adopting a ‘No Casino’ resolution” and this decision is the one that must be undertaken by the Full Council.
14. The Council received a number of technical challenges to the draft policy during the consultation process and the summary of changes made to the current 2022- 2025 Statement of Gambling Policy are contained in Appendix 6.

Verified by: Mrinalini Rajaratnam, Chief Solicitor (Planning and Property), 10 December 2024

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

Proposals and Analysis of Options

Background and Introduction

15. The Council's Statement of Gambling Policy provides advice and guidance to local authorities when exercising their functions under the Gambling Act 2005. It also provides guidance to applicants and objectors.
16. The final draft revised Statement of Gambling Policy 2025 – 2028, at Appendix 9, is the Council's seventh SGP and must be adopted by Full Council. It must then be published at least 28 days before it comes into effect.

The Review Process

17. In reviewing the statement of gambling policy, we have considered the following:
 - The promotion of the three licensing objectives;
 - The guidance issued under Section 25 of the Gambling Act 2005;
 - The current 2022 Statement of Gambling Policy;
 - Legal advice on the introduction of cumulative impact areas and gambling vulnerability zones;
 - The views of the Gambling Commission including 2023 Review of the Gambling Act 2005 by the Commission;
 - Local crime prevention measures; and
 - The Equality Act 2010
18. Gambling is an activity that involves the circulation of large sums of money and if not properly controlled is susceptible to fraud, money laundering and other criminal activity and malpractice. It is recognised that the small minority of gamblers who have problems in controlling their gambling can cause damage to themselves and those near them and a significant proportion of problem gamblers commit illegal acts to enable them to pursue their gambling. The Budd report, that introduced the Gambling Commission recommended that casinos should be tightly regulated and the proliferation of a multitude of small casinos should be avoided.
19. The 2023 Review by the Gambling Commission recommends that the Government considers similar provisions to that introduced by the Licensing Act 2003 for alcohol licensing. It noted that a number of licensing authorities submitted that they would benefit from greater powers to take account of the risks posed to the licensing objectives, and to public health, by the density and cumulative impact of gambling venues in a locality. The Commission was of the view that community impact areas ("CIA") could be implemented in such a manner that would avoid undermining the 'aim to permit' principle of the Act.

20. While including CIAs in the legislation would give local authorities greater power, as statements are subordinate in nature, local policy statements can be used to take into account factors such as public health and crime. The White Paper notes CIAs complement existing powers, *“Whilst existing powers, particularly local policy statements, do allow licensing authorities to take into account factors such as public health and crime, we recognise that licensing authorities would benefit from the introduction of CIAs, in part because they are familiar with them from alcohol licensing, and in part because it explicitly allows them to consider the cumulative impact of gambling premises in a particular area.”*
21. The White paper encourages licensing authorities to make full use of their existing powers. It states *“We recommend that licensing authorities update their policy statements using a wide range of data and analysis, including making use of spatial tools and public health data to identify vulnerable areas and to state their position on additional gambling premises in these areas. We also recommend that licensing authorities make more use of their powers to attach conditions to premises licences, such as opening hours and security measures”*.
22. The Gambling Act 2005 provides licensing authorities with the ability to manage local risks and make decisions using local knowledge. In its policy statement a licensing authority can identify and address gambling-related harms in its area and publish specific objectives for a locality.
23. The main changes to the statement of gambling policy include a revised and expanded Local Area Profile which has highlighted clustering of gambling premises and areas which have concerns with a number of factors including vulnerability, deprivation and crime/ disorder amongst others. The evidence contained in this document has led to a proposal to introduce cumulative impact areas and gambling vulnerability zones to try and curb the harmful effects of gambling premises in the borough. There have also been further changes to restrict the terminal hour for Adult Gaming Centres, and a continuation of the borough’s ‘no casino’ resolution. More detailed information on all of these proposals is included in section 21 - 29 of this report.

Issues for Consideration

24. The Licensing Authority can only consider matters within the scope of the Gambling Act, Guidance and associated Codes of Practice and cannot become involved in the moral issues relating to gambling.
25. The Local Area Profile, which essentially acts as an evidence base for the policy, has been extensively updated as part of this review and will ultimately form part of the policy at Annex 3. For ease of reference the full Local Area Profile has also been included separately at Appendix 2 of this report. Whilst there is no mandatory requirement to have a Local Area Profile, there are a number of benefits:
 - a) it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it;
 - b) greater clarity for operators as to the relevant factors in licensing authority decision making will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application;

- c) it enables 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; and
 - d) it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.
- The newly revised Local Area Profile includes information on the following factors:
 1. Deprivation – high deprivation areas have been assessed using information in relation to income, employment, education, health and crime / disorder amongst others.
 2. Vulnerability – areas of high vulnerability have been calculated using information in relation to housing, crime, employment, and children and families.
 3. The location and density of all gambling premises in the borough.
 4. All crime and ASB within the borough.
 5. Drugs and alcohol – information on residents attending A&E for an alcohol or drug related condition.
 6. Location of children’s centres and health services.
 7. Location of primary schools.
23. The new profile introduces three Cumulative Impact Areas where a clustering of gambling premises has been identified in the Shepherd’s Bush, Hammersmith and Fulham (North End Road) areas.
 24. Five new gambling vulnerability areas have also been created in the top 40% of the most vulnerable areas of the borough. The revised policy makes it clear that there is a policy presumption to refuse any new applications for Betting Shops, Adult Gaming Centres or Bingo premises in a Cumulative Impact Area or a Gambling Vulnerability Zone.
 25. A proposal has also been made to reduce the terminal hour for Adult Gaming Centres to 10pm (previously 11pm). Any premises wishing to operate after this time would be asked to provide a robust risk assessment and also commit to employing more than one member of staff after 10pm. This proposal has been suggested to try and combat an issue with crime linked to lone working in these types of venues.
 26. Some employees are exposed to high-risk situations daily e.g. crime, violence and mental health issues. Environmental Health Officers have previously investigated incidents which have occurred before 10pm where only one member of staff was on duty. In most cases, affected employees have suffered physical injuries and/or post-traumatic stress disorder, which has the potential to have knock on effects.
 27. A requirement to employ door supervisors at any premises where alcohol is sold, or which operates beyond 11pm, has been strengthened by reducing the time to 10pm.
 28. It has been suggested that the borough’s ‘no casino’ is maintained, but that the wording is altered slightly to make it clear that this decision will be reviewed every three years, and that it can be withdrawn at any time.

29. Other changes have been made to reflect the latest version of the Gambling Commission’s Guidance document and the Commission’s Codes of Practice. We have simplified some of the wording to make it clearer, removed some specific references to extracts from the Guidance, updated dates and links to various websites and updated contact details.

Licensing objectives

30. Consideration must be given to the three licensing objectives below as well as the needs of businesses within the borough.
- a) Preventing gambling from being a source of crime and 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.

The Consultation Process

31. The Gambling Act requires the licensing authority to consult on its Statement of Gambling Policy with the Police; those who represent the interests of gambling businesses in their area; and those which represent interested persons likely to be affected (Section 349 (3)).
32. To fulfil the requirement of the Act, a five week consultation began on the 21 October 2024 and closed on the 24 November 2024. Any business which operates a gambling premises in the borough was contacted on the day the consultation went live with an invitation to make comments. The online consultation was also promoted weekly through the Council’s E-news alert.
33. The online consultation page included a copy of the current policy, a new draft amended policy, a copy of the draft Local Area Profile, and a survey with questions highlighting the key changes to the proposed policy. Appendix 3 contains the consultation questions for the draft policy.
34. All responses received have been collated and analysed and the draft Gambling Policy has been revised where it is considered appropriate to do so.
35. The timetable for adoption is detailed in the table below:

Activity	Date(s)
Public 5-week consultation	21 October 2024 – 24 November 2024
Public 5-week consultation ends	24 November 2024
Political Cabinet meeting	16 December 2024
Full Council	22 January 2025

Planned timetable for the review and adoption of the SGP

Summary of Consultation Responses

36. 8 questions formed part of the public consultation which ran from the 21 October 2024 to the 24 November 2025.
37. 14 survey responses were received in the in the consultation period. An analysis of these responses is included at Appendix 5.
38. 7 separate responses were also received from the following solicitors / individuals representing the gambling industry:
 - Gosschalks - The Betting and Gaming Council
 - Wood Whur - Entain Group (Ladbrokes and Coral)
 - Poppleston Allen - The Bingo Association
 - Poppleston Allen - Mekur Slots
 - The Gambling Business Group
 - Head of Licensing and Development - William Hill
 - Novamatic UK – Luxury Leisure and Talarius Ltd
39. All of the parties mentioned above have explained in their responses that they believe the current proposal to refuse any AGC, Bingo or Betting Shop premises within a Cumulative Impact Area or Gambling Vulnerability Zone is unlawful.
40. These respondents have explained that Section 153 of the Gambling Act 2005, as currently worded, sets out an 'aim to permit' principle, which point 6.9 of our proposed policy would be contrary to. For ease of reference section 6.9 is currently drafted as follows:
 - *6.9 Within Gambling Vulnerability Zones and the three Cumulative Impact Areas, there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises.*
41. We have received separate external legal advice on all of the written responses made during the consultation period, which is included in full at Appendix 8.
42. Two of the seven written responses also raised concerns with a proposal to reduce the terminal hour for AGC and Bingo premises to 22:00 (from 23:00) For ease of reference section 6.15 is currently worded as follows:
 - *6.15 The licensing authority expects opening hours for premises to be specified only in applications where hours are not already specified by the default conditions. The licensing authority also suggests that that the terminal hour for AGC and Bingo premises should be limited to 22:00. Any such premises wishing to operate after this time would need to provide a robust risk assessment and also commit to employing more than one member of staff after 22:00.*
43. The Police also made comments on the gambling consultation which is included at Appendix 6 of this report. They are supportive of the proposal to introduce Gambling Vulnerability Zones / Cumulative impact areas in the borough. They are also in favour of the suggestion to reduce the terminal hour for Adult Gaming Centres, explaining

that there is a concern with the association of these premises with ASB and crime in the Shepherd's Bush and North End Road areas in particular.

Reasons for Decision

44. The Council must approve and adopt a statement of gambling policy every 3 years. It is suggested that the changes outlined in the draft policy at Appendix 1, and further clarified in Appendix 6 are incorporated into a newly revised policy.
45. It is clear from the Local Area Profile (attached at Appendix 2) that the vast majority of gambling premises in the borough (particularly AGC, Betting Shops and Bingo Premises) are located in areas with the highest vulnerability index rating. It is also evident that many of these premises are located in areas of high deprivation.
46. Hot spots for crime and disorder are also at their highest in borough where gambling premises are located. Our revised Local Area Profile makes the following comment on this issue: 'Most gambling premises are in areas of higher crime and ASB'.
47. Whilst we acknowledge the comments made on behalf of gambling operators during the consultation period, we have weighed these concerns against the welfare of some of the most vulnerable communities in the borough, where many of the current gambling premises are located.
48. We are also mindful that during the consultation period 57% of respondents were in agreement with our proposal to refuse any new licences for adult gaming centres, betting shops or bingo premises in gambling vulnerability zones. Additionally, 43% of respondents thought that the proposed policy did not go far enough to promote the protection of children and vulnerable people gambling objective.
49. Whilst the proposed policy is more restrictive, and will obviously have an impact on any new gambling operators looking to open in the borough, it should be also be noted that a policy presumption to refuse any new gambling licences, will not affect the existing operators.
50. Given the consultation responses a decision has been made to amend section 6.9 of the draft proposed policy as follows:

Consultation Version:

6.9 Within Gambling Vulnerability Zones and the three Cumulative Impact Areas, there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises.

Revised Version:

*6.9 Within Gambling Vulnerability Zones and the three Cumulative Impact Areas there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises, **except in exceptional circumstances.***

51. Given that most respondents were in favour of retaining the Council's no casino resolution, a decision has also been made to leave the existing wording of the policy unaltered.

Equality Implications

52. The Council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in s149 of the Equality Act 2010. The policy has low relevance in relation to its impact on the protected characteristics as it applies to all licensed businesses. A section has been included in the draft revised Statement of Gambling Policy to reflect the Authority's commitment to equality and diversity.

Risk Management Implications

53. The Council is required, under the Gambling Act 2005, to have a Statement of Gambling Policy, which is produced in line with the legislation and the Gambling Commission's guidance to licensing authorities. The policy has to be reviewed every three years and subject to a 12 week consultation process, where the outcome of the consultation is reported along with the policy being proposed for adoption.
54. A number of consultees who operate in this sector within the borough have stated in their responses that they believe the Council's policy presumption to refuse AGC, Bingo or Betting Shop premises within a Cumulative Impact Area or Gambling Vulnerability Zone to be unlawful. Two respondents also raised concerns about the proposal to reduce the terminal hour for AGC and Bingo premises by one hour.
55. The report considers the concerns raised by gambling operators in their responses with the welfare of some of the most vulnerable communities in the borough, where many of the current gambling premises are located.
56. External legal advice has been sought and provided, which officers have taken into account in preparing this report. The report considers both the requirements and obligations of the legislation and guidance on the Council and the scope, within the guidance, to take account of local circumstances which consider the impact of the policy on residents.
57. In considering and agreeing the proposed policy, including the continuation of the "no casino" resolution, Members will need to consider the rationale set out in the report, the legal implications set out above, the external legal advice received and the impact on residents of the policy in making their decision.

Implications completed by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 12 December 2024

Climate and Ecological Emergency Implications

58. The majority of changes to the current gambling policy are technical in nature and there are no significant foreseen climate implications. There are potential positive climate implications for an earlier 11pm closure of AGC premises, which could mean more gambling premises closing earlier in the evening rather than operating 24 hours, which would reduce operational emissions from energy use on the premises.
59. The impact of removing the Council's no casino resolution is that a new Casino could be attracted to the borough. The impact of this on operational emissions from heating, cooling and powering the building depends on the business it replaces: the impact will

be lower if the casino is replacing an existing business on the site that would have been consuming energy anyway; but emissions could increase if this leads to longer operating hours, and if the energy demand of the casino is higher than the existing business.

60. If a new build casino or substantial renovation is proposed this would contribute to significant additional embodied emissions from construction. Planning policy requires the reduction of operational emissions to the extent required by the London Plan, but does not regulate embodied emissions from construction.

Verified by Laura Humphreys, Circular Economy Lead

LIST OF APPENDICES:

Appendix 1	Draft revised Statement of Gambling Policy 2025 – 2028 (including changes)
Appendix 2	Draft revised Local Area Profile
Appendix 3	Consultation questions for the draft revised Statement of Gambling Policy 2025 – 2028
Appendix 4	Written consultation responses
Appendix 5	Consultation survey responses and statistics
Appendix 6	Summary of proposed changes to the current 2022 Statement of Gambling Policy
Appendix 7	Police consultation response
Exempt Appendix 8	Legal advice including external advice from Counsel
Appendix 9	Final draft revised Statement of Gambling Policy 2025 – 2028
