

LICENSING AND GAMBLING STATEMENT REPORT

Meeting	13th June 2023 - 10:00am
Report Author	Alison Brock – Technical Support Team Manager
Portfolio Holder	
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider a report to amend the Council's current Knowledge Test.

Recommendation:

The instructions of the Board are requested.

CORPORATE IMPLICATIONS

Financial and Value for Money

Costs associated with processing the application are taken from licensing fee income.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

Legal

The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

Risk Management

This section of the report should address each step of our Risk Management process that has been adopted to identify, evaluate and control and mitigate risks. Full details are provided in our Risk Management Strategy, but in summary the following should be considered:

Identify

Asking the following questions can help identify risks:

- If in a year from now we haven't achieved this objective, why – what could have stopped us?
- What could realistically go wrong?
- What do we need in order to achieve this objective? Do we depend on others to succeed?
- What opportunities might arise?

Evaluate

The purpose of this step is to understand the scale of the risks that have been identified and whether or not we need to take action to lower or manage the impact and/or likelihood.

Control and Mitigate

Risk treatment involves taking actions to reduce likelihood of the risk occurring, or limiting the impact if the risks did materialise.

There are 4 principal ways in which we can respond to risks, these are known collectively as 'the Four Ts': Treat, Tolerate, Transfer, Terminate.

Corporate

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community.

These Core Business Objectives are:

Growth

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in growth of the District.

Environment

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

Communities

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “responsible authorities” and/or “other persons” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

Introduction and Background

The Council has to publish a Licensing Policy Statement and a Gambling Policy Statement and these should be reviewed every 3 years.

2.0 The Current Situation

- 2.1 Both of the statements need renewing. The statements have to go out for consultation with various bodies, the trade and the public, every time they are renewed or changes are made that may have an effect on aspects of the statements. The Government is currently in the process of reviewing the Gambling Act and making some changes to the Licensing Act.

Current statements attached at Annex A & B

- 2.2 Once the changes have been agreed and made to the Acts, changes will have to be made to the two statements and they will need to go out for full consultation. Therefore I am requesting that the Board agrees to an extension to the statements in their current form for a period of no longer than 12 months.

Once the changes have been made to the Acts the statements will be fully updated to reflect these and any other changes that may be required following consultation with all interested parties.

3.0 Options

- 3.1 Agree to the Statements being in place for up to another 12 months.
- 3.2 To not approve an extension of the current Statements

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

Annex List

Annex A - Current Gambling Statement

Annex B - Current Licensing Statement