

Council Report

Ward(s) affected: n/a

Report of the Director of Community Services

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Gambling Act 2005: Statement of Principles 2019-2022

Executive Summary

The Gambling Act 2005 requires the Council as licensing authority to prepare and publish a Statement of Principles every three years. The existing Statement of Principles was published in January 2016 and is due for renewal by January 2019.

On 30 May 2018, the Licensing Committee agreed to conduct a public consultation on a draft Statement of Principles. This report, which was also considered by the Licensing Committee at its meeting on 28 November 2018, informs councillors of the results of the public consultation exercise, and asks the Council to adopt the Statement of Principles, as set out in Appendix 1. Any comments or recommendations from the Licensing Committee will be reported to the Council on the Order Paper.

Recommendation to Council

That the Gambling Act 2005 Statement of Principles 2019-2022, as set out in Appendix 1 to this report, be adopted with effect from 1 January 2019..

Reasons for Recommendation:

To comply with the requirements of the Gambling Act 2005 the Council must prepare and publish a statement of principles for the period 2019-2022.

1. Purpose of Report

- 1.1 The report informs the Council of the results of the public consultation exercise on the revised statement of principles approved on 30 May 2018.
- 1.2 It asks the Council to consider the results of the public consultation exercise and to adopt the statement of principles, as set out in **Appendix 1**, with effect from 1 January 2019.

2. Strategic Framework

- 2.1 The Gambling Act Statement of Principles 2019 - 2022 will contribute to our fundamental themes and priorities as follows:

Economy – supporting business, growth and employment
Sustainability – safe borough

- 2.2 The statement of principles balances the right of an applicant to make an application under the Gambling Act 2005 (the Act) and to have the application considered on its merits, against the right of any person to make representation on an application or to seek a review of an existing licence.
- 2.3 An appropriate balance will ensure that gambling businesses are provided with a framework within which to operate whilst providing assurance to the public and protecting children and vulnerable persons.

3. Background

- 3.1 The Council is the licensing authority for the purposes of the Act, which requires the Council to prepare a Statement of Gambling Principles that it proposes to apply in exercising its functions under the Act.

- 3.2 The Statement of Principles sets out the general approach the Council will take when carrying out its regulatory role under the Act and promoting the three licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 3.3 The Act was designed to be a light touch piece of legislation covering a wide range of licensable activities such as adult gaming centres and betting premises.

- 3.4 The Act specifies that local authorities should “aim to permit” gambling, provided it is in accordance with the Code of Practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with the Statement of Principles. The effect of this duty is that licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers to promote the licensing objectives rather than by starting out to prevent it altogether.

- 3.5 The current Statement was adopted by Council in December 2015, with the renewal date being January 2019.

4. Proposed changes

- 4.1 A number of additions and amendments to the current Statement of Principles were consulted upon, to reflect the update in the Guidance published by the Gambling Commission (5th Edition, September 2015).

- 4.2 There are no changes to the intent or direction of the Policy, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision-making.
- 4.3 The draft Policy includes a Local Area Profile for Guildford as endorsed by the latest guidance which recommends improvement to the approach to gambling licensing and regulation by:
- Increased focus on risk and regulation
 - Greater attention to local area risk, and;
 - Encouragement of partnership and collaboration between stakeholders to mitigate risk
- 4.4 From April 2016, all industry operators have had to undertake local area risk assessments to explore what risks gambling venues pose to the licensing objectives, including the protection of young and vulnerable people. The Local Area Profile acts as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments.
- 4.5 The Statement includes a large new section on the Council's expectations around operators' local risk assessments. This will enable the Council to regulate local gambling more effectively by being able to hold operators to account if their assessments fall short of the Council's expectations.

5. Consultation

- 5.1 Consultation is critical to ensure any changes to the Statement of Principles are clear and transparent for businesses, responsible authorities and the public.
- 5.2 The legislation specifies those persons and groups that the Council has a duty to consult with. Consultations were sent to all current and former licence holders, groups representing the interests of the licensed trade, the responsible authorities, groups representing the local community, charitable groups, all ward councillors and parish councils.
- 5.3 Following approval of consultation, officers followed our consultation standards and carried out a consultation over a 12 week period between 8 June – 3 September.
- 5.4 During the consultation period, six (6) consultation responses were received. The responses are attached in **Appendix 2**.
- 5.5 Three responses were received from organisations representing the interests of the Gambling industry. One response was received from GamCare. One response was received from HMRC updating their contact address. One response was received from Ash Parish Council stating that they had no comments.
- 5.6 The comments about the policy, with comment from officers were as follows:

Comment from	Comment	Response
GamCare	<p>The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.</p>	<p>The inclusion of a Local Area Profile fulfils this.</p>
	<p>We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice.</p>	<p>Comment noted. The Licensing Authority has little control over the operators making applications in our area.</p>
Bingo association	<p>Since 2011, there has been no numerical limit on the number of Category B3 machines (unless a premises licence was acquired after that date). The limit for B3 gaming machines in licensed bingo premises was increased to 20% of the available machine estate and therefore reference to a number in the Policy document is misleading.</p>	<p>The wording of this paragraph has been amended.</p>
Gosschalks on behalf of the Association of British Bookmakers	<p>The heading to Part B is "Promotion of the licensing objectives" and therefore there is a reference within paragraph 9.2 that the applicant will need to demonstrate how it will "promote" one of the licensing objectives. The promotion of the licensing objectives is a fundamental principle in Licensing Act 2003 applications but the only body upon whom Gambling Act 2005 confers a duty to promote the licensing objectives is the Gambling Commission. The licensing authority</p>	<p>The Council's Policy seeks to promote the licensing objectives as per paragraph 6.7 of the Guidance to Local Authorities.</p>

Comment from	Comment	Response
	<p>is required to have regard to the licensing objectives when exercising most of its functions whilst applications and the operation of licensed premises are required to be “reasonably consistent” with the licensing objectives. In the circumstances, the references to “promotion” and “promote” should be amended.</p> <p>Furthermore, within paragraph 9.1, there is a statement that the council will have to be satisfied that premises “<i>will not adversely affect the licensing objectives and is compliant with the Commissioner’s Guidance, Code of Practice and this Policy Statement</i>”. This reference should also be amended to reflect the fact that the council will need to be satisfied that applications/ operations will be reasonably consistent with the licensing objectives.</p>	
Gosschalks on behalf of the Association of British Bookmakers	<p>It appears that the first sentence of paragraph 16.3 may be incomplete. This sentence indicates that “<i>The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives</i>” but does not indicate what the consequences of that satisfaction may be. This sentence should be redrafted in order that the consequences of such satisfaction are clear.</p>	The paragraph has been updated.

Comment from	Comment	Response
Gosschalks on behalf of the Association of British Bookmakers	<p>Paragraph 16.6 contains a list of bullet points that the licensing authority recommends be considered by operators when making their risk assessment. The second bullet point (<i>“gaming trends that may reflect benefit payments”</i>) should be deleted as this is not a relevant consideration when assessing a risk to the licensing objectives. The only way in which this could be relevant is if the licensing authority had determined that those in receipt of benefits were automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not taken place.</p>	<p>This is a list of factors that we would expect operators to identify in their local risk assessment. The Council considers that operators should take all reasonable steps to protect vulnerable persons, including those in receipt of benefits</p>
	<p>Similarly, the final bullet point relating to antisocial behavior should be deleted as issues of nuisance and anti-social behavior are not relevant considerations as far as an assessment of a risk to the licensing objectives is concerned.</p>	<p>Anti-social behaviour may constitute low level crime and/or disorder and the Council would expect operators to consider this in their assessments.</p>
	<p>Paragraph 21 explains the licensing authority’s approach to the imposition of additional conditions. We welcome the acknowledgement in paragraph 21.1 that all Gambling Act 2005 premises licences are subject to mandatory and default conditions which are usually sufficient to ensure operation in accordance with the licensing objectives and therefore it is unlikely that the council will need to impose further conditions.</p> <p>This section would, however, be assisted if the statement made in paragraph 12.2 could be reiterated i.e. that additional conditions will only be attached where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.</p>	<p>Comment noted.</p>

Comment from	Comment	Response
	Paragraphs 27.2 and 27.3 refer to betting machines. The draft Statement of Principles would be assisted if a clear distinction could be made between betting machines and gaming machines. Whilst the licensing authority has the power, in certain circumstances, to restrict the number of betting machines, it may not restrict the number of gaming machines. The holder of a betting premises licence may make available for use up to 4 gaming machines of categories B, C or D (Section 172(8) Gambling Act 2005).	Comment noted.

5.7 As stated above, one minor change to the draft Policy approved for consultation is suggested based upon the consultation responses received. This is at Paragraph 26.3 where there is no longer a numerical limit on the number of category B3 machines in Bingo premises.

5.8 The final version for consideration by the Council is attached as **Appendix 1**.

6. Financial Implications

6.1 Under the Act, the Council has the power to recover its costs and set fees and charges at such a level that the licensing process is cost neutral to the Council.

6.2 The financial implications associated with the revision of the Statement of Principles can be financed from the Licensing budget.

7. Legal Implications

7.1 Section 349(1) of the Gambling Act 2005 requires the Council, as licensing authority, to prepare and publish a statement of principles to cover each successive period of three years. Section 349(2) requires the Council to review the statement from time to time, revise the statement if thought necessary as a result of the review and publish the revision before giving effect to it.

7.2 In preparing the statement, the Council must consult the following people for its area:

- a) The chief officer of police
- b) People representing the interests of persons carrying on gambling businesses
- c) Persons who represent the interests of persons who are likely to be affected by the Council exercising its functions under the Act

7.3 Before a statement or revision comes into effect, the regulations require licensing authorities to publish a notice of their intention to publish a statement or revision. The notice must:

- specify the date on which the statement or revision is to be published
- specify the date on which the statement or revision will come into effect
- specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected
- be published on the authority's website and in/on one or more of the following places for at least four weeks before it comes into effect:
 - a local newspaper circulating in the area covered by the statement
 - a local newsletter, circular, or similar document circulating in the area covered by the statement
 - a public notice board in or near the principal office of the authority
 - a public notice board on the premises of public libraries in the area covered by the statement.

8. Human Resource Implications

- 8.1 Provided the Policy is recommended for approval by Licensing Committee, there will not be any additional human resource implications associated with the revision of the Statement of Principles.

9. Conclusion

- 9.1 The Act requires the Council to prepare and publish its Statement of Gambling Principles every three years and requires that we consult on the proposed statement of principles. The Statement for the next three-year period has been prepared and the draft consulted upon.
- 9.2 Following the consultation, the Council is requested to adopt the Statement of Principles in order to comply with our statutory duty.

10. Background Papers

[Gambling Act 2005](#)

[Gambling Act 2005 Statement of Principles 2016-19](#)

[Gambling Commission Guidance to licensing authorities 5th edition September 2015](#)

[Gambling Commission Local Authority Bulletin January 2018 Statements of Policy 2019-2022](#)

[Gambling Commission – Participation and Perceptions Report February 2018](#)

[Gambling Regulation: Councillor Handbook – Local Government Association \(2018\)](#)

[Minutes of Licensing Committee 30 May 2018](#)

11. Appendices

Appendix 1: Guildford Borough Council draft Statement of Gambling Principles 2019-2022

Appendix 2: Consultation responses received.