

Meeting General Purposes Committee

Portfolio Area Communities, Community Safety and Equalities

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GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES

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1 PURPOSE

- 1.1 To consider the Council's draft Statement of Principles as required under the Gambling Act 2005.

2 RECOMMENDATIONS

- 2.1 That the General Purposes Committee agrees the proposed Stevenage Borough Council Gambling Act Statement of Principles 2019-2022 (attached at Appendix A).
- 2.2 That the General Purposes Committee recommend the Stevenage Borough Council draft Statement of Principles to the Executive for onward recommendation to Council.

3 BACKGROUND

- 3.1 The Council is the licensing authority for the purposes of the Gambling Act and consequently is under a duty 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 conceived as ‘light touch’ 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 setting out to prevent it altogether.
- 3.5 The Policy seeks to strike a balance between the interests of licence holders, applicants and residents in the promotion of the licensing objectives defined by the Act. Additionally, it outlines the licensing authority’s expectations of licence holders in promoting the licensing objectives, whilst advising on the licensing authority’s obligations under the Act, including its interpretation of the Act and/or Statutory Guidance where necessary. The Statement is designed to offer appropriate protection for residents and a streamlined approach to regulation that eases unnecessary burdens on businesses.
- 3.6 The current Statement was adopted by full Council in December 2015 and must now be reviewed and, where necessary, revised.

Proposed changes

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

- 3.8 The draft policy can be found at Appendix A; all significant additions or variations from the 2016-2019 policy have been highlighted in grey. There are no changes to the intent or direction in the proposed 2019-2022 policy, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision making.
- 3.9 From April 2016, all industry operators have had to undertake local area risk assessments to explore the risks that gambling venues pose to the licensing objectives, including the protection of young and vulnerable people. The Local Area Profile, which the draft policy commits the Council to provide, will act as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments.
- 3.10 The Statement includes a 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.

Consultation

- 3.11 In preparing the Policy, the licensing authority must publish any proposed policy before giving it effect and must consult with:
- the chief officer of police for the licensing authority's area;
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.
- 3.12 To comply with this requirement, the licensing authority published the draft Policy on a dedicated webpage on the Council's website with details of the consultation period and an explanation of how to make a representation. The page was available between 5th March and 30th April 2019. All organisations listed in Appendix 2 of the Policy were sent a consultation email or letter directing them to the consultation page. Just two responses were received from GamCare and Gosschalks Solicitors, the latter acting on behalf of the Association of British Bookmakers.
- 3.13 GamCare is the leading provider of information, advice, support and free counselling for the prevention and treatment of problem gambling. They operate the National Gambling Helpline, provide treatment for problem gamblers and their families, create awareness about responsible gambling and treatment, and encourage an effective approach to responsible gambling within the gambling industry. The organisation provided a generic response to the consultation, emphasising their support for local area profiles and risk assessments which are included in the Policy. A copy of the Gamcare response can be seen at Appendix B.

- 3.14 GamCare also suggested that the Council should primarily consider applications from GamCare certified operators. Whilst the draft Policy promotes the importance of organisations such as GamCare and their role in promoting responsible gambling, the principles of each application being determined on its own merits remains paramount. It is not proposed therefore to include this suggestion; however GamCare certification, where present, could be included by operators within individual risk assessments and in addressing the local area profile as part of an application.
- 3.15 Gosschalks Solicitors, acting on behalf of the Association of British Bookmakers (ABB), made a number of observations. In general terms, as part of a generic response, they made no adverse comments in relation to the draft Policy; indeed they offered support for the effective use of local area profiles and risk assessments. They also referred to the national decline of betting premises, low problem gambling rates and new planning controls from April 2015 affording local authorities additional controls through the planning process. Local decision-making should focus on the promotion of the licensing objectives and these issues should not unduly influence the determination of applications.
- 3.16 Gosschalks Solicitors made a number of specific comments on behalf of ABB; their full response is included at Appendix C. While a number of their comments suggested that the draft Policy should be revised to remove references to measures they believe are not directly linked to the licensing objectives, these changes have not been made as it is considered that these measures are in fact relevant considerations. For example, proximity to cashpoints and alcohol licensed premises is relevant when considering the potential harm to people with existing gambling problems.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 4.1 Section 349 of the Gambling Act 2005 requires licensing authorities to publish a statement of licensing principles every three years in accordance with prescribed requirements. The adoption of the statement of licensing principles is a non-executive function by virtue of the Act and Statutory Guidance and is reserved for Full Council.
- 4.2 The only alternative option would be to adopt a policy that differs in content and/or extent from the document proposed here. An alternative policy has not been considered as the one proposed achieves an effective balance between ensuring the promotion of the licensing objectives and avoiding being overly prescriptive or prohibitive to applicants and licence holders.

5 IMPLICATIONS

Financial Implications

- 5.1 Local authorities have the ability to set their own local fees in connection with the Act on a cost recovery only basis, subject to centrally prescribed maximum amounts. The administration and enforcement of the Act, including the adoption of a policy, places no additional financial burden on the Council as all costs are recovered through fees.

Legal Implications

- 5.2 The Licensing Authority has a statutory duty to produce a Statement of Principles under the Gambling Act 2005. Inadequate implementation of the Act would cause considerable difficulty to businesses and residents.

Community Safety Implications

- 5.3 The Act has a community safety implication arising from the licensing objectives. There are currently no local concerns regarding the impact of gambling on community safety, and it does not appear within the Council's community safety plan.

BACKGROUND DOCUMENTS

- BD1 Gambling Act 2005
- BD2 Gambling Act 2005 (Licensing Authorities Policy Statement) (England and Wales) Regulations 2006
- BD3 Guidance for Local Authorities, 5th Edition (Gambling Commission, March 2015)
- BD4 Gambling Act 2005; Stevenage Borough Council Statement of Policy 2016-2019

APPENDICES

- A Gambling Act 2005 - draft Statement of Principles
- B Consultation response from GamCare
- C Consultation response from Gosschalks Solicitors, acting on behalf of the Association of British Bookmakers (ABB)