

Meeting Executive

Portfolio Area Communities, Community Safety and Equalities

Date 10 July 2019



GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES

NON KEY DECISION

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1 PURPOSE

- 1.1 To consider the Council’s draft Statement of Principles as required under the Gambling Act 2005.
- 1.2 To note that the draft Statement of Principles was considered by the Council’s General Purposes Committee at their meeting on 6th June 2019.

2 RECOMMENDATIONS

- 2.1 That the Executive notes the report and agrees the proposed Stevenage Borough Council Gambling Act Statement of Principles 2019-2022 (attached at Appendix A).
- 2.2 That the Executive recommends the Stevenage Borough Council draft Statement of Principles to the Council for adoption.

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. It 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.
- 3.4 The Statement 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.
- 3.5 The current Statement was adopted by full Council in December 2015 and must now be reviewed and, where necessary, revised.

Proposed changes

- 3.6 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).

- 3.7 The draft Statement can be found at Appendix A; all significant additions or variations from the 2016-2019 Statement have been highlighted in grey. There are no changes to the intent or direction in the proposed 2019-2022 Statement, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision making.
- 3.8 The most substantive changes in the new Statement are intended to meet the Commission's most recent guidance and are as follows:
- A whole section has been devoted to promotion of the licensing objectives as defined by the Act to give them due prominence and in particular to expand upon expectations in respect of the third objective, protecting children and other vulnerable persons from being harmed or exploited by gambling.
 - 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. A new section outlining the Council's expectations in relation to operators' local risk assessments has been incorporated. This guidance 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.
 - The same new section introduces the concept of the Local Area Profile and commits the Council to provide one within the life of the new Statement. The Local Area Profile will act as a guide which gambling operators can use when undertaking and preparing their local premises risk assessments

Consultation

- 3.9 In preparing the Statement, the licensing authority must publish any proposed document 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.
- 3.10 To comply with this requirement, the licensing authority published the draft Statement 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 Statement 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.

- 3.11 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 Statement.
- 3.12 GamCare also suggested that the Council should 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. Whilst the draft Statement promotes the importance of organisations such as GamCare and their role in promoting responsible gambling, the principle of each application being determined on its own merits remains paramount. The Commission's Guidance also precludes the licensing authority from attaching conditions to a licence which provide that membership of a club or body be required. 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.
- 3.13 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 Statement; 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.
- 3.14 Gosschalks Solicitors made a number of specific comments on behalf of ABB. While a number of their comments suggested that the draft Statement 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 Statement that differs in content and/or extent from the document proposed here. An alternative Statement 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. Any wholly revised Statement would be subject to a further full consultation process.
- 4.3 The draft Statement of Principles was considered by the Council's General Purposes Committee at their meeting on 6th June 2019. The following comments and amendments to the proposed Statement of Principles were made by Members:
- The Committee was concerned with the wording of introductory Paragraph A1.4 of the proposed Statement of Principles, which outlined some of the socio-economic factors in respect of the town. It was considered that, as there was no evidential link between this paragraph and gambling in the Borough, it was agreed that this paragraph be removed from the document;
 - The Committee acknowledged that new Licence Holders would be required to submit local Risk Assessments in association with their licence applications. At the request of Members, Officers undertook to investigate whether or not it would be permissible to require existing Licence Holders to submit such Risk Assessments for their premises (possibly by sourcing Best Practice from other licensing authorities);
 - Local Area Profile – Officers confirmed that it was the intention to develop such a profile during the life of the proposed Statement of Principles (2019 – 22), including socio-economic factors, in order to act as a guide which gambling operators could use when undertaking and preparing their local premises risk assessments; and
 - Members requested Officers to provide them with details regarding a proposed promotional event on the Gambling Act to be held later in June 2019.

- 4.4 The General Purposes Committee resolved:
- That the proposed Stevenage Borough Council Gambling Act draft Statement of Principles 2019-2022, attached at Appendix A to the report, and as amended, be supported.
 - That the Executive be requested to agree the Stevenage Borough Council Gambling Act draft Statement of Principles for onward recommendation to Council.

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 Statement, places no additional financial burden on the Council as all costs are recovered through fees. Fees will be reviewed as part of the annual budget-setting process.

Legal Implications

- 5.2 The Licensing Authority has a statutory duty to produce a Statement of Principles under the Gambling Act 2005 and review it at least once every three years.

Equalities and Diversity Implications

- 5.3 The proposed Statement of Principles does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion, or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met. A brief form Equalities Impact Assessment is attached as Appendix B.

Community Safety Implications

- 5.4 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

All documents that have been used in compiling this report, that may be available to the public, i.e. they do not contain exempt information, should be listed here:

- 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 Equalities Impact Assessment