

Meeting General Purposes Committee

Portfolio Area Communities, Community Safety and Equalities

Date 13 January 2022



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.

2 RECOMMENDATIONS

- 2.1 That the General Purposes Committee agrees the proposed Stevenage Borough Council Gambling Act Statement of Principles 2022-2025 (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 June 2019 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 (April 2021, updated May 2021).
- 3.8 The draft policy can be found at Appendix A; all significant additions or variations from the 2019-2022 policy have been highlighted in yellow. There are no changes to the intent or direction in the proposed 2022-2025 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 To accompany the revised Statement of Principles, a local area profile was undertaken. The local area profile aims to summarise existing national research relating to gambling related harm, and identify potential risks relating to vulnerable groups and/or geographical areas within Stevenage. The local area profile can be seen in Appendix B.
- 3.10 The local area profile has identified that Bedwell ward reveals potential risks as this area has a number of gambling premises (due to the Town Centre being part of Bedwell) and also being an area of high deprivation in the Borough.
- 3.11 There is no evidence to identify that gambling is causing harm to children or vulnerable adults in Bedwell or elsewhere in the Borough of Stevenage.
- 3.12 The Statement includes new sections on Applications (A4), Authorisations under the Act (A5), the Gambling Commission (A6), Protecting children and other vulnerable persons from being harmed or exploited by Gambling (B3.12-20), Environmental considerations (C3), Public Health and Gambling (C4).

Consultation

- 3.13 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.
- 3.14 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 15 November 2021 and 19 December 2021. All organisations listed in Appendix 2 of the Policy were sent a consultation email or letter directing them to the consultation page. Responses were received from Power Leisure Bookmakers, Betting & Gaming Council and POhWER (a charity and membership organisation that provides information, advice, support and advocacy to people who experience disability, vulnerability, distress and social exclusion).

3.15 Power Leisure Bookmakers Response can be seen in Appendix C. Comments relate to content in Part B (3.12-20), Part C (4.6) and (6.2).

- 3.16 We strongly disagree with the commentary included in the draft policy. Comments relating to child sexual exploitation and the imposition of additional obligations on operators fail to consider the extensive social responsibility provisions now contained in the governing legislation.

Licensing Authority's comments: Upon review of the Guidance to Licensing Authorities (published April 2021 and updated May 2021), the Licensing Authority's policy statement sets out how the licensing authority will deal with local concerns and issues. Part 6 outlines parameters for the Licensing Authority policy statement. The guidance acknowledges other regulatory regimes and requires an avoidance of duplication of regulatory obligations in the statement be a commitment by the Licensing Authority. Certain premises that are licensed gambling premises can admit children (persons under the age of 18), such as pubs and clubs with gaming machine permits, bingo premises and unlicensed family entertainment centres. As such, the statement of principles brings awareness to Licence Holders and Applicants of the risks of child sexual exploitation and measures that can be employed to identify issues in a timely manner. Paragraph B3.16 will be amended to read 'Applicants and Licence Holders of relevant premises (pubs and clubs with gaming machines, bingo premises and unlicensed family entertainment centres) are encouraged ...'

- 3.17 Part B comments (3.12-20) – 'safeguarding against child sexual exploitation (CSE) ... has no direct relevance to the Gambling Licensing Objectives. Of particular concern, is the inclusion of the statement: "*The Council expects applicants to demonstrate the measures they will take to safeguard CSE in the local risk assessment.*" This is not only stretching an operator's responsibility beyond the scope of the licensing objectives but has no relevance when considering children are not permitted to enter a betting premises.

Licensing Authority's comments: The draft statement explicitly requires consideration of CSE in any local risk assessment (B3.20). CSE is an emerging risk within any area and there is a responsibility on all businesses to consider this as part of their safeguarding responsibilities. On further examination of the gambling licensing objectives, it is suggested that this requirement (at B3.20) be removed, as businesses have a responsibility to act lawfully and react accordingly when CSE becomes apparent during the course Licence Holders day-to-day operation.

- 3.18 Power Leisure Bookmakers also oppose the inclusion of the control measure: '*regular patrols of the premises, including external areas and*

the immediate proximity, to identify any vulnerable persons'. This not only extends an operator's responsibility away from gambling, but now outside their premises which is far beyond their obligations under the licensing objective and policing of the high streets are not within the powers of a licensee.

Licensing Authority's comments: This is a possible control measure that can be adopted by applicants and licence holders. The measure is not an explicit requirement but a suggested suitable control measure at B3.14 and B3.16. No changes to these paragraphs are required.

- 3.19 Public Health & Gambling; use of data in a local area profile be based on local, up to date evidence.

Licensing Authority's comments: Agreed; the local area profile is referenced to assist with this.

- 3.20 Premises 'ready for gambling'; Other than the right to occupy, there is no legal reason preventing someone from applying for a premises licence and we therefore suggest that this section is amended to reflect this.

Licensing Authority's comments: Provisional applications are required where the business does not have the right to occupy the premises and/or does not have an operating licence from the Gambling Commission which allow the applicant to carry out the proposed activity. Paragraph C6.2 shall read; 'Premises licence applications will be considered upon application. Where applicants do not have the right to occupy and/or does not have an operating licence issued by the Gambling Commission, the applicant will be advised to submit a provisional statement instead'.

- 3.21 **Gosschalks, on behalf of the Betting and Gaming Council response can be seen in Appendix D. Comments have been received for Part B (1.2, 3.9, 3.12-3.20) and Part C (7.10).**

- 3.22 Any reference to "promotion" or "promote" when used in the context of an applicant's duty should be removed (Paragraph B1.2)

Licensing Authority's comments; Agreed; remove 'promote' and replace with 'meet'. As such, Part B will also be retitled 'Meeting the Licensing Objectives'.

- 3.23 There is no requirement (or ability within the prescribed application forms) for an applicant to suggest/propose conditions (Paragraph 3.9)

... The measures suggested within paragraph 3.9 (policies, procedures and mitigation measures to address risks identified by the risk assessment) are dealt with via the risk assessment rather than by way of licence conditions as the risk assessment is a dynamic document which (in accordance with SR (social responsibility) code provision 10.1.2) must be reviewed if there is a significant change in local circumstances.

Licensing Authority's comments; Thank you for the clarification, as such, paragraph B3.9 will read 'The licensing authority may consider any of the measures detailed below as suitable methods to protect persons (children or vulnerable persons) from harm or at risk of being exploited by gambling. The business' local risk assessment in accordance with SR code provision 10.1.2, will consider these controls and any subsequent controls that have equal or better effect ...

- 3.24 Paragraphs B3.12 to B3.20 ... detail the licensing authority's expectations and requirements with regard to safeguarding. These paragraphs should be redrafted to ensure that these expectations are proportionate and relevant to what is proposed by an applicant ... It cannot, however, be proportionate or effectively a condition of the grant of a licence that applicants/operators regularly patrol external areas to identify vulnerable persons, monitor persons as they leave or train all staff in any adult only premises in CSE indicators.

Licensing Authority's comments: Further review of this section has been undertaken subsequent to comments from Power Leisure Bookmakers and as such paragraph 3.17 will be altered to read 'The Council anticipates ...' rather than 'The Council expects ...'

- 3.25 POhWER comments can be seen in Appendix E. The responses are queries and questions submitted for clarity; these will be responded to separately and do not affect the Statement of Principles

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, (Gambling Commission, 1 April 2021, updated 13 May 2021)
- BD4 Gambling Act 2005; Stevenage Borough Council Statement of Policy 2019-2022

APPENDICES

- A Gambling Act 2005 draft Statement of Principles 2022-2025.
- B Local Area Profile.
- C Consultation response from Power Leisure Bookmakers Limited.
- D Consultation response from Gosschalks on behalf of Betting and Gaming Council.
- E Consultation response from POhWER.