

Licensing Committee Report

Ward(s) affected: All

Report of the Director of Service Delivery

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## **Gambling Act 2005: Statement of Principles 2022-25**

### **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 2019 and is due for renewal by January 2022.

The current Statement is due to expire and an updated draft, albeit with no changes, was approved for public consultation by Licensing Committee on 26 May 2021. This report seeks to inform Licensing Committee of the results of the consultation and asks that the Committee recommends that Council approves the draft Statement of Principles at Appendix 1.

### **Recommendation to Licensing Committee**

That the Committee recommends Full Council on 7 December 2021 approve the draft Gambling Act 2005 Statement of Principles 2022-25, as set out in Appendix 1 to this report.

### Reason for Recommendation:

To comply with the requirements of the Gambling Act 2005 the Council must prepare and consult on a statement of principles for the period 2022-25.

1. Purpose of Report
  - 1.1 The report informs the Committee of the results received during the consultation of the review of the statement of principles.
  - 1.2 It asks the Committee to recommend Council on 7 December approve the proposed statement of principles in Appendix 1

## 2. Strategic Priorities

2.1 Reviewing the Gambling Act 2005 Statement of Principles will contribute to our fundamental themes and priorities as follows:

- **Place making** – regenerating and improving Guildford town centre and other areas across the Borough through well-regulated licensed establishments.
- **Community** – enhancing sporting, cultural, community and recreational facilities.
- **Innovation** – Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need.

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 2018, with the renewal date being January 2022.

#### **4. Proposed changes**

- 4.1 The current statement was comprehensively reviewed in 2018 to reflect the updated Guidance published by the Gambling Commission (5<sup>th</sup> Edition, September 2015) and to include a Local Area Profile for Guildford. Whilst there has been a further update in Guidance from the Commission, there has been no material change to the Guidance affecting Local Authority Statements of Principles. As such, there are no changes proposed to the current Policy.
- 4.2 In addition, due to the demands on the Council in transitioning under the Future Guildford review, responding to the Covid-19 pandemic a lack of resource available in the Council to update the GIS maps in the Local Area Profile and other current pressures on the licensing service any significant changes to the Policy would be difficult to implement under the current circumstances.

#### **5. Consultation**

- 5.1 Whilst there are no changes proposed to the Statement of Principles, the Council still has a duty to consult on the revision and it is important that consultation takes place to ensure the Statement of Principles is clear and transparent for businesses, responsible authorities and the public, and to seek views on any suggestions for amendments that consultees may have.
- 5.2 The legislation specifies those persons and groups that the Council has a duty to consult with.
- 5.3 Following the approval of the Licensing Committee, consultation was carried out over a 12 week period between 5 July and 1 October 2021. Officers consulted with interested parties by:
- Writing to the chief officer of police
  - Publicising the consultation on the Council's website
  - Writing to or emailing the responsible authorities listed in Appendix B of the Statement of Principles
  - Writing to or emailing the consultees listed in Appendix C of the Statement of Principles who are either people representing the interests of persons carrying on gambling businesses or persons who may be affected.
  - Using the Council's website and social media to inform the public of the consultation.
- 5.4 During the consultation period three (3) consultation responses were received, which are shown in full in Appendix 2.
- 5.5 Relevant consultation comments, together with Officer's responses are presented for ease in the table below:

<b>Consultee and Comment:</b>	<b>Officer Response:</b>
<p>Mrs J Hogg, member of St Saviours Church, Woodbridge Road. We do not see the need for any further changes to the current position</p>	<p>Comment noted.</p>
<p>Gambleaware: Due to resource constraints on a small charity, we are not able to offer specific feedback on your policy. GambleAware is also fully supportive of local authorities which conduct an analysis to identify areas with increased levels of risk for any reason. In particular we support those who also include additional licence requirements to mitigate the increased level of risk. Areas where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling harms include children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services.</p>	<p>Comment noted. The Local Area Profiles contained within the Statement seek to identify areas where there may be a likelihood of increased risk to gambling harms.</p>
<p>The Betting and Gaming Council:</p> <p>We note that it is not proposed to update the existing (2019-2022) Statement of Principles and the comments below therefore follow a review of that policy.</p> <p>Part B is headed, "Promotion of the Licensing Objectives." This should be amended to delete the reference to "promotion" as there needs to be a clear distinction between the Licensing Act 2003 regimes and that deal with by the Statement of Principles. Neither the licensing authority nor operators have a duty to promote the licensing objectives. The only body upon whom Gambling Act 2005 confers such a duty is the Gambling Commission itself.</p> <p>The first sentence of paragraph 16.3 appears to be incomplete. This reads, "<i>The council will need to be satisfied that there is sufficient evidence that the particular location would be harmful to</i></p>	<p>The three licensing objectives guide the way in which the Gambling Commission and Licensing Authorities perform their functions, and the way in which businesses carry on their activities. The Commission and Licensing Authorities have a duty to pursue the objectives, and the Commission expects that businesses deliver them.</p> <p>Officers consider that the paragraph read as a whole is clear: If there is evidence of a risk to harm in a location, operators will need to ensure this is reflected in their risk</p>

<p><i>the licensing objectives</i>” but it does not go on to state what the consequence of being so satisfied would be. This sentence needs redrafting/supplementing in order that its meaning is clear.</p> <p>Paragraph 16.6 contains a list of matters that the licensing authority recommends are considered by operators when conducting risk assessments. This list should be redrafted to delete matters that are not relevant to any assessment of risk to the licensing objectives.</p> <p>SR Code Provisions 10.1.1 and 10.2.2 provide for <i>“relevant matters identified in the licensing authority’s statement of licensing policy”</i> to be taken into account. The examples of matters that the licensing authority recommends be considered needs therefore only to reflect matters that are relevant to the licensing objectives.</p> <p>It is impossible to see how issues such as <i>“known problems in the area such as street drinkers, youths participating in anti-social behaviour, drug dealing activities etc”</i> could pose a risk to the licensing objectives.</p> <p>Similarly, <i>“gaming trends that may mirror reflect benefit payments”</i> can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct and references to any issue that is not relevant to the licensing objectives should be removed.</p> <p>Paragraph 20.2 needs to be redrafted. This states that applicants will be expected to explain in their applications how their proposals will not exacerbate problems to individuals living in the vicinity or exacerbate any crime</p>	<p>assessment.</p> <p>The Council considers all of the identified list to be relevant for operators to consider as each has clear links to the licensing objectives.</p> <p>As above.</p> <p>These examples are linked to deprivation and potential vulnerability to gambling harms.</p> <p>As above comment.</p> <p>Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:</p> <ul style="list-style-type: none"> <li>• when applying for a variation of a premises licence</li> </ul>
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<p>problems within the vicinity generally. Furthermore, this paragraph expects “tailored applications” and to propose licence conditions. This appears to conflate requirements of Licensing Act 2003 applications and those under Gambling Act 2005 and needs amending so that there is no confusion.</p> <p>Gambling Act 2005 applications do not require an explanation of how the proposals will not exacerbate any problems to individuals or general crime in the vicinity. Relevant matters are for the local area risk assessment in which an applicant will identify risks to the licensing objectives (rather than problems of crime in the area generally) posed by the provision of the gambling facilities proposed and detail policies, procedures and control measures in place to mitigate the risk.</p> <p>Furthermore, an applicant will not need to tailor an application nor propose licence conditions as is expected under Licensing Act 2003. The default conditions that attach to all premises licences are designed to be, and usually are, sufficient to ensure operation that is consistent with the licensing objectives. Additional conditions would only be required where there is evidence that the policies, procedures and control measures contained within the risk assessment do not adequately address the risk posed by the provision of gambling facilities proposed.</p> <p>Appendix D is overly long and refers to matters outside any consideration of risk to the licensing objectives. Maps 5, 8,9,10 all have no relevance as far as an assessment of risk to the licensing objectives is concerned and should therefore be removed.</p>	<ul style="list-style-type: none"> <li>• to take account of significant changes in local circumstances, including those identified in a licensing authority’s policy statement</li> <li>• when there are significant changes at a licensee’s premises that may affect their mitigation of local risks.</li> </ul> <p>Where a licensing authority’s policy statement sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence</p> <p>As above.</p> <p>Map 5 shows gambling premises and support centres assisting people with financial difficulties an unemployment. These are clear risk factors for being vulnerable to gambling harms as these centres will be accessed by members of the population who are likely to be unemployed and considered likely to have a combination of very low income and a large amount of personal disposable time.</p>
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	<p>Map 8 shows gambling premises and alcohol licensed premises. There is evidence to suggest that persons impaired by the influence of alcohol may be at risk of gambling related harm and as such this is a relevant consideration for assessment by operators.</p> <p>Maps 9 and show gambling premises and reported crimes. The gambling objectives aim to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime and the maps are provided in order to assist operators with their risk assessments.</p>
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- 5.6 Following consideration of the consultation responses received, Officers do not consider any changes to the draft Statement of Principles Consulted upon are required.

## **6. Equality and Diversity Implications**

- 6.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 6.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 6.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 6.4 There are no equality and diversity implications arising from the review of the Gambling Act Policy, which has been subject to public consultation with all stake holders.

## **7. Financial Implications**

7.1 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.

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

## **8. Legal Implications**

8.1 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.

8.2 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

8.3 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.

8.4 Upon recommendation from the Licensing Committee, the revised Statement of Principles will be presented for approval at Full Council on 7 December 2021.

## **9. Human Resource Implications**

9.1 The Future Guildford review has introduced wider changes to the Council's structure, including a reduction in the current Licensing resource, although the creation of a number of other potential resources yet to be realised in the Case Services or Compliance Team to potentially assist with Licensing work although it



remains to be seen what effect this will have on the effective operation of the service, which remains busy in transitioning to the new structure. In addition, this work has come at a time when the Licensing Service is busy assisting with the Council's response to the coronavirus pandemic, which has seen implications for other areas of Licensing, including relaxations to alcohol licensing restrictions.

- 9.2 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.

## **10. Climate Change/Sustainability Implications**

- 10.1 There are no climate change or sustainability implications.

## **11. Summary of Options**

- 11.1 After considering the report and the consultation responses, the Committee may either:
1. recommend Council approve the Statement of Principles at Appendix 1,
  - or
  2. approve the Statement with amendments.

## **12. Conclusion**

- 12.1 The Act requires the Council to prepare and publish its Statement of Gambling Principles every 3 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.
- 12.2 Following consultation the Licensing Committee are requested to recommend the adoption of the Statement of Principles at Full Council on 7 December in order to comply with our statutory duty.

## **13. Background Papers**

[Gambling Act 2005](#)

[Gambling Act 2005 Statement of Principles 2019-21](#)

[Gambling Commission Guidance to licensing authorities 6<sup>th</sup> edition May 2021](#)

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

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

## **14. Appendices**

- Appendix 1: Guildford Borough Council draft Statement of Gambling Principles 2022-25

Appendix 2: Consultation Response Received

<b>Service</b>	<b>Sign off date</b>
Finance / 151 Officer	<i>2 November 2021</i>
Legal / Governance	<i>2 November 2021</i>
HR	<i>5 November 2021</i>
Equalities	<i>5 November 2021</i>
Lead Councillor	<i>15 November 2021</i>
CMT	<i>2 November 2021</i>
Committee Services	<i>3 November 2021</i>