

REPORT TITLE: REVIEW OF STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

8 DECEMBER 2021

REPORT OF CABINET MEMBER: Cllr Lynda Murphy

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WARD(S): ALL

PURPOSE

The City Council as the Licensing Authority is required to review and publish its Statement of Principles under the Gambling Act 2005 every three years. The next review is due for adoption in January 2022.

This report seeks to make amendments to the Statement of Principles as detailed in the report.

RECOMMENDATIONS:

That the Licensing and Regulation Committee:

1. Note and consider consultation responses received, and agree changes made to the draft Statement of Principles.
2. Recommend the draft Statement of Principles as set out at Appendix 1, including amendments, be adopted at the next available Council meeting.

IMPLICATIONS:1 COUNCIL PLAN OUTCOME

1.1 Vibrant Local Economy

1.2 The Statement of Principles relates to the strategic outcome 'vibrant local economy' by working with industry bodies and the Gambling Commission to permit gambling activities to take place legally and safely in the hospitality and leisure sectors.

1.3 Living Well

1.4 The Statement of Principles relates to the strategic outcome 'living well' by working closely with other regulatory bodies to ensure that gambling in the district is conducted in a fair and open way, and with regard to children and vulnerable persons.

1.5 Your Services, Your Voice

1.6 The Statement of Principles relates to the strategic outcome 'your services, your voice' by publishing the terms under which gambling applications will be considered and enforcement undertaken to ensure transparency.

2 FINANCIAL IMPLICATIONS

2.1 None.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The Gambling Act 2005 requires every licensing authority to publish a statement of principles that it proposes to apply in exercising its functions under the Act every three years. This policy covers the period 2022 to 2025. Whilst this policy sets out a general approach to making licensing decisions each application will be considered on its own individual merits. In producing this document the council has had regard to the licensing objectives, the guidance issued by the Gambling Commission and any responses from those consulted on this policy statement.

3.2 When exercising most of its functions under the Gambling Act 2005, the licensing authority will have regard to the licensing objectives set out in section 1 of the Act:

- 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 Statement of Principles must be reviewed every three years as required by the Gambling Act 2005.

3.4 There are no procurement implications as a result of this report.

4 WORKFORCE IMPLICATIONS

4.1 None.

5 PROPERTY AND ASSET IMPLICATIONS

5.1 None.

6 CONSULTATION AND COMMUNICATION

6.1 The proposed changes to the Statement of Principles have undergone a 4-week public consultation process, ending on 21 October 2021. The full list of those consulted is included in the draft Statement of Principles at Appendix 1 to this report.

6.2 No concerns have been raised or adverse comments received in relation to the proposals.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 None.

8 EQUALITY IMPACT ASSESSEMENT

8.1 See Appendix 3.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 See Appendix 4.

10. RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	N/A	
Exposure to challenge	The Statement of Principles could be challenged by Judicial Review, but as the Council's decision-making process is lawful a challenge is considered unlikely.	There is an opportunity through the public consultation to raise awareness of the Gambling Act and associated regulations
Innovation	N/A	
Reputation	The Statement of Principles sets out the expectations of applicants and licence holders to balance the ability to provide facilities for gambling, which is held in a fair and open way, whilst ensuring that there is suitable protection for children and vulnerable people.	
Achievement of outcome	The council is required to review and publish its Statement of Principles under the Gambling Act 2005 every 3 years. To ensure WCC complies with this and meets the next review date of January 2022 a draft Statement of Principles has been prepared for the Licensing and Regulation Committee to recommended for adoption at the next available Council meeting.	Opportunity to review the statement to ensure it is fit for purpose and also an opportunity once the reviewed Statement of Principles is published to raise awareness of the Gambling Act and associated regulations
Property	N/A	
Community Support	All elected Members, Parish Clerks and recognised residential associations have been consulted.	
Timescales	The current Statement of Principles will remain live until the reviewed version has been adopted.	
Project capacity	N/A	
Other	N/A	

11 SUPPORTING INFORMATION:

Introduction

- 11.1 The Licensing Authority is required under section 249 of the Gambling Act 200 to prepare and publish a “Statement of Principles” every three years.
- 11.2 The current Statement of Principles was adopted by the Council on 28 February 2019, for the period of 31 January 2019 until 31 January 2022.
- 11.3 The Act contains three licensing objectives that underpin the functions that the Gambling Commission and Licensing Authorities perform and which are central to the regulatory regime. They are:
- 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; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 11.4 [The Gambling Commission’s Guidance to Licensing Authorities](#) was last updated in May 2021, and therefore this review presents an opportunity to ensure that the Statement is consistent with the most current guidance from gambling’s main regulatory body.

Changes proposed

- 11.5 The draft Statement of Principles at Appendix 1 details the proposed changes that are shown tracked.
- 11.6 The vast majority of proposed changes reflect updates to the Gambling Commission’s Guidance to Licensing Authorities:
- i. Page 3: Update the tourism statistics to reflect data from the Council’s last Economic Impact study.
 - ii. Page 3: Update the number of gambling premises and small society lotteries to reflect the number of current licences.
 - iii. Pages 3-4 and 8: Update the list of consultees who represent the interests of persons carrying on gambling businesses, and those who represent the interests of persons who are likely to be affected by the exercise of the Council’s functions under the Act.
 - iv. Page 7: Included reference to vulnerable persons, for clarity.
 - v. Pages 7-8: Added reference to the Gambling Commission’s National Strategy to Reduce Gambling Harms and the requirement for the Council to review this resource regularly.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- vi. Page 8: Added reference to the Gambling Commission's social responsibility codes, which require operators to assess local risks and have control measures in place to mitigate risk.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- vii. Page 9: Removal of information that is relevant to consulting on any review of the Statement of Principles.

Reason: This information should be made public at the time of consultation and is not relevant throughout the duration of the Statement of Principles' validity.

- viii. Page 9: Addition of the word '*permissions*', to cover those licensing functions not covered by 'licence' or 'permit' i.e. Temporary Use Notices.
- ix. Pages 11, 47: Updated job titles for City Council representatives, following restructure.
- x. Page 13: Added '*district and/or county*' to clarify that democratically elected members from either type of authority may be 'interested parties.'
- xi. Page 13: Added '*in relation to an application*' to clarify that representations received must be relevant to the application being made.
- xii. Page 13: Removal of references to 'complainant', in line with Gambling Commission's updated guidance.
- xiii. Page 14: Addition of General Data Protection Regulation (GDPR) legislation, in relation to exchange of information.
- xiv. Page 15: Addition of '*requested by and submitted to the Gambling Commission*', to add clarity regarding annual returns.
- xv. Page 16: Added reference to Gambling Commission's guidance and resources in relation to compliance checks.

Reason: To ensure that any compliance checks undertaken are consistent with those of other licensing authorities across the country.

- xvi. Page 16: Removal of point 8.3 – this is already covered on page 15, section 7.4.
- xvii. Page 17: Added reference to Local Authority Compliance Events (LACE) and how the Council will respond to non-compliance.

Reason: Engagement with LACE, and regard to the Gambling Commission's advice on how to deal with any suspected non-compliance identified following LACE, is recommended in the Gambling Commission's updated guidance to licensing authorities.

- xviii. Page 20: Clarification that the Licensing Department will provide information about gambling applications / premises on request to the Planning Committee and any other appropriate review panels.

Reason: The previous Statement placed the burden on the Licensing Authority to identify where other committees / panels may require information regarding gambling applications / premises. Information will be now be supplied on request to ease the administrative burden on the Licensing Department.

- xix. Page 21: Clarification of the types of regulatory regimes that the Statement of Principles seeks to avoid duplicating.

- xx. Pages 22, 26, 27: Addition of the requirement for the Licensing Authority to refer to the Gambling Commission's website for the most up-to-date mandatory or default conditions for licences.

Reason: Mandatory and default conditions may be subject to change, and so reference to having regard to the Gambling Commission's guidance ensures that the Licensing Authority is referring to the most current information.

- xxi. Pages 23 – 24: Updated list of types of premises that may be considered 'tracks' under the Gambling Act 2005, including reference to multi-purpose venues.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxii. Page 25: Amended section on track rules being displayed, to include taking a proportionate approach to the display of rules in circumstances where there are multiple locations of betting under one licence. Removed sentences where the Gambling Commission's guidance is directly quoted, as this is frequently reviewed.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxiii. Page 25: Amended section on requirements for plans submitted with applications to mirror Gambling Commission's guidance. Removed sentences where the Gambling Commission's guidance is directly quoted, as this is frequently reviewed.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxiv. Pages 26-27: Addition of reasonable steps that the Council should take to ensure that, where category C or above gaming machines are available on premises to which children are admitted, children are denied access to such machines.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxv. Page 26: Addition of requirement for Licensing Authority to have regard to the Secretary of State's guidance on running competitions for competitive bidding on casino premises.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxvi. Page 29: Clarification that Unlicensed Family Entertainment Centre gaming machine permits will not generally be permissible for entire premises; machines should be in a designated and/or enclosed area.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxvii. Page 30: Clarification that signage relating to preventing access to gaming machines by young people is actively encouraged.

Reason: Previous Statement advised that signage 'may also help.' Amended to confirm that the Licensing Authority actively encourages the use of signage by operators to prevent access to gaming machines by young people.

- xxviii. Page 31: Addition of list of circumstances where they may be an exemption to the requirement to obtain a prize gaming permit, and requirement for the Licensing Authority to refer to relevant legislation and guidance in deciding where a circumstance is exempt.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxix. Page 31: Addition of the requirement for the Licensing Authority to consult the Chief Officer of Police and, where appropriate, the local Safeguarding Children Board or equivalent, on applications for permits.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxx. Page 32: Amended wording to reflect the correct names of the permits available: 'Club Machine Permits' and 'Club Gaming Permits'.

xxxi. Page 32: Clarification that members' clubs do not need to be licensed for the supply of alcohol under the Licensing Act 2003 in order to be eligible for a club gaming or club machine permit.

xxxii. Page 33: Addition of circumstances in which a commercial club can apply for a permit, and requirement for the Licensing Authority to refer to the Gambling Commission's guidance in determining a club's status.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

xxxiii. Page 33: Addition of reference to regulations that define the statutory limits for Temporary Use Notices, for clarity.

xxxiv. Page 33: Addition of requirement for Licensing Authority to refer to the Gambling Commission's guidance in determining what constitutes a 'set of premises' in relation to Temporary Use Notices.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

xxxv. Page 33: Addition of requirement for Licensing Authority to refer to the Gambling Commission's guidance in determining the definition of a 'track' in relation to Occasional Use Notices.

Reason: This change is in line with the Gambling Commission's updated guidance to licensing authorities.

xxxvi. Page 35: Clarification in relation to the type of hearing that would be held to determine applications.

xxxvii. Pages 35 – 36: Addition of section relating to small society lotteries and how the Licensing Authority administers this type of application, publishes guidance notes and refers to the Gambling Commission's guidance where necessary.

Reason: Small society lotteries are the Council's most common application received under the Gambling Act 2005; the previous Statement made no reference to how these applications were administered. This section is based on the Gambling Commission's updated guidance to licensing authorities.

xxxviii. Page 39: Removal of the term 'child' from the glossary, as the Gambling Act 2005 does not consistently use this term for either those under the age of 16 years of age or under the age of 18 years of age. The definition changes throughout the Act dependent on the type of gambling activity referred to.

- xxxix. Page 39: Removal of the term 'judicial review orders' from the glossary, as a judicial review can secure a declaration, order or award. Information is readily available on GOV.UK in relation to judicial reviews.
- xl. Page 49: Amendment to the definition of 'young person' to mirror that in the Gambling Commission's updated guidance to licensing authorities.
- xli. Appendix 3: Amended to reflect the Council's current application procedure for small society lotteries, and to reflect the Gambling Commission's updated guidance to licensing authorities.
- xlii. Replacing the term 'self-barring' with 'self-exclusion' throughout the Statement, to ensure consistency with the Gambling Commission's preferred terminology.
- xliii. Replacing his/her and /him/her with gender neutral language throughout.
- xliv. General amendments to grammar to match the Council's corporate communication style.

Consultation

- 11.7 Before proposed adoption of the Statement of Principles, the Council has consulted:
 - The Chief Constable of Hampshire Constabulary
 - One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the district, e.g. the Association of British Bookmakers.
 - One or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act, e.g. all Ward Members.
- 11.8 The consultation period ran from 21 September 2021 to 21 October 2021. The draft Statement was available throughout the consultation period on the Council's website.
- 11.9 Three responses were received during the consultation period. All comments received can be seen at Appendix 2.
- 11.10 It is recommended that the final version of the Statement of Principles, following any amendments made at the Licensing and Regulation Committee meeting on 8 December 2021 to consider comments received, be submitted to full Council for adoption at the next available meeting.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Not applicable.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

LR 515 Review of Statement of Principles under the Gambling Act 2005
(6 December 2018)

Other Background Documents:-

[Gambling Commission – Guidance to licensing authorities \(1 April 2021\)](#)
[Last updated 13 May 2021](#)

APPENDICES:

Appendix 1 Draft Statement of Principles

Appendix 2 Comments received during consultation period

Appendix 3 Equality Impact Assessment

Appendix 4 Data Protection Impact Assessment