



REPORT TO:	LICENSING COMMITTEE
DATE:	09 NOVEMBER 2021
SUBJECT:	GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES
KEY DECISION:	<i>NO</i>
PORTFOLIO HOLDER:	COUNCILLOR PAUL SKINNER – PORTFOLIO HOLDER FOR REGULATORY SERVICES
REPORT AUTHOR:	ANNA MCDOWELL – LICENSING OFFICER
WARD(S) AFFECTED:	ALL
EXEMPT REPORT?	NO

SUMMARY

The Gambling Act 2005 (the Act) requires that, every 3 years, the Licensing Authority consults on, adopts and publishes a Statement of Principles setting out its policy for administering and enforcing licences, registrations and permits in accordance with the Act.

A revised Statement of Principles is required, by law, to be published by 31 January 2021.

The administration and enforcement of licensing of gambling premises and activities is prescribed in legislation and the Statement of Principles is based on guidance provided by the Gambling Commission. The Council cannot adopt any local policy that would be inconsistent with the requirements of the Act.

Since the Act came into force in 2006 the administration and enforcement of gambling licensing in Boston has operated effectively and the Statement of Principles has previously and is currently considered to be fit for purpose. It is therefore considered that no major changes are required to the existing statement.

The draft Statement of Principles is attached at Appendix A for members' consideration comments and amendments. Any proposed changes to the existing Statement of Principles are highlighted yellow.

The committee is requested to approve the draft Statement of Principles, including any amendments considered appropriate by the committee, and resolve that the draft is

consulted on in accordance with the requirements of the Gambling Act 2005.

RECOMMENDATIONS

The committee considers the draft Statement of Principles and resolves that any further amendments required by the committee be integrated into the draft statement prior to consultation.

The committee resolves that the draft Statement of Principles be consulted on as required under the provisions of the Gambling Act 2005.

REASONS FOR RECOMMENDATIONS

To ensure the revised Statement of Principles is consulted on, adopted and published by the statutory deadline of January 2021.

OTHER OPTIONS CONSIDERED

There are no other options for consideration – it is a statutory requirement that the Council reviews the policy on a three-yearly basis.

REPORT

1. Background

1.1 The Gambling Act 2005 (the Act) delegates the responsibility for a number of gambling functions to licensing authorities. These functions include:

- Responsibility for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issuing provisional statements;
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via the issuing of club gaming permits and/or club machine permits;
- Issuing club machine permits to commercial clubs;
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- Receiving notifications from premises licensed for the sale and consumption of alcohol on the premises (under the Licensing Act 2003) for the use of two or fewer gaming machines ;
- Issuing licensed premises gaming machine permits for premises licensed to sell/supply alcohol (for consumption on the licensed premises), under the Licensing Act 2003, where there are more than two machines;
- Registering small society lotteries below prescribed thresholds
- Issuing prize gaming permits;
- Receive and endorse temporary use notices (TUNs);
- Receive occasional use notices (OUNs);
- Providing information to the Gambling Commission regarding details of licences and permits issued; and
- Maintaining registers of the permits and licences that are issued under these functions.

Additionally licensing authorities have enforcement responsibilities not only in respect of the permissions they grant but also for permitted activities such as poker in pubs, bingo in village halls and race nights which do not required a licence or permit

1.2 The Act requires a licensing authority to carry out its function under the provision of the legislation with a view to promoting the licensing objectives of:

- 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.

1.3 The Licensing Authority must, every 3 years, consult on, adopt and publish a Statement of Principles setting out its policy for the administration and enforcement of the Act. The deadline for the Statement of Principles to be reviewed, adopted by the council and published is January 2021.

- 1.4 The administration and enforcement of licensing for gambling premises and activities is prescribed in legislation and the Statement of Principles is based on guidance provided by the Gambling Commission. This is to facilitate consistency nationally. The council cannot adopt any local policy that would be inconsistent with the requirements of the Act.
- 1.5 Operators of gambling premises such as betting shops, gaming centres and bingo providers have to undergo stringent scrutiny by the Gambling Commission to obtain an Operator's Licence. Without such a licence issued by the Gambling Commission they cannot apply to Boston Borough Council for a Premises Licence. Since the Act came into force in 2006 the administration and enforcement of gambling licensing in Boston has operated effectively. The Statement of Principles therefore has previously and is currently considered to be fit for purpose. It is therefore considered that no major changes are required to the existing statement.
- 1.6 The Council in its capacity as Licensing Authority cannot adopt a policy of limiting the number of Gambling Premises.
- 1.7 The draft statement is attached at Appendix A. For ease of reference proposed amendments are highlighted yellow. These amendments are considered appropriate to provide further clarity to the policy and to add further expected controls to ensure promotion of the licensing objectives, in particular the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

2. Consultation

- 2.1 Before adopting and publishing the statement the licensing authority is required to consult with:
 - The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
 - One or more persons who appear to represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Gambling act 2005.

The proposed consultees are listed at Appendix 2 of the draft Statement of Principles at Appendix A.

- 1.2 It is a requirement that the views of all consultees are given proper weight when determining the statement. To meet this requirement, following the consultation, a schedule of responses will be brought back to the Licensing Committee for consideration. Where appropriate and agreed by the committee, amendments to address the responses will be integrated into the final draft statement.
- 1.3 The committee are requested to resolve that the draft policy be consulted on as required under the provisions of the Gambling Act 2005.

CONCLUSION

1. There is a statutory requirement to review the Gambling Act 2005 Statement of Principles every 3 years and this must be completed by January 2021. It is therefore **RECOMMENDED** that the committee considers the draft Statement of Principles and resolves that any further amendments required by the committee be integrated into the draft statement prior to consultation.
2. It is **RECOMMENDED** that the committee resolves that the draft Statement of Principles be consulted on as required under the provisions of the Gambling Act 2005.
3. Following the consultation the final draft Gambling Act Statement of Principles will be brought back to Licensing Committee for approval with a recommendation the Statement be referred to Full Council for adoption.

FINANCIAL IMPLICATIONS

The cost for stationery and postage for full consultation, estimated at a maximum of £150 will be met from existing budgets. Consultation will, as far as practicable, be carried out electronically to keep costs to a minimum.

LEGAL IMPLICATIONS

The Licensing Authority is legally obliged to publish its Statement of Principles in January 2021. Adoption of the Statement is a council function which cannot be delegated to cabinet or a committee. Failure to adopt and publish the Statement of Principles by the deadline would leave the Licensing Authority open to challenge.

RISK IMPLICATIONS

There are no risk management issues in addition to those highlighted in the legal implications above.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

None

EQUALITY AND SAFEGUARDING IMPLICATIONS

Equality Implications: There are no equality implications arising from the recommendations of this Report.

Safeguarding Implications: There are no specific safeguarding implications arising from the recommendations of this Report.

OTHER IMPLICATIONS

Human Rights: The Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action / policy proportionate to what it wishes to achieve, or, colloquially does the end justify the means.

Crime & Disorder Implications: Core to the Gambling Act 2005 are the licensing objectives, which are detailed in Paragraph 1.5 of this Report. The licensing objectives have been considered throughout the drafting of the revised policy and in relation to the Authority's Section 17 requirements.

Corporate Considerations: The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors, and business community. Effective implementation of an appropriate licensing regime should help to promote the local economy.

CONSULTATION

As detailed at paragraph 2 of this report a full consultation on the draft Statement of Principles will be undertaken.

The following parties have been consulted on this report:

SMT
Monitoring Officer
Portfolio Holder for Regulatory Services

APPENDICES

Appendices are listed below and attached to the back of the report: -

<i>APPENDIX A</i>	<i>Draft Statement of Principles</i>
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BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title	Where the document can be viewed
<i>Gambling Act 2005</i>	<i>Licensing & Land Charges Office, Boston Borough Council, Municipal Buildings, West Street, Boston</i>
<i>Gambling Commission Guidance to Local Authorities</i>	<i>Licensing & Land Charges Office, Boston Borough Council, Municipal Buildings, West Street, Boston</i>

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:

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Signed off by:

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FINANCE PROFORMA

PROFORMA FOR APPROVAL OF THE RELEASE OF RESOURCES
(CAPITAL AND REVENUE BUDGETS)

FROM: RACHEL CHATTERTON

THIS PROFORMA PROVIDES THE FINANCIAL IMPLICATIONS
IN RESPECT OF THE ATTACHED

REPORT:

REPORT DATE:

OPTION 1	£ Year 1 2020/21	£ Year 2 2021/22	£ Year 3 2022/23	£ Year 4 2023/24	£ Year 5 2024/25
Revenue	£150				
Total Revenue Cost	£150				

Funding required:

Total capital cost £0

Considered by:

Licensing Committee

Date:

09.11.2021

Revenue cost £150

Financial Services Comments

There will be no financial implications and the minimal costs will be met from existing budgets.

Risk

Procurement

Value for Money Efficiency

This FP is valid for 3 months from FP date	If this FP is no longer required please advise Finance	If there are changes to the original report it may invalidate this document, it must be reviewed by Finance.