



**Report To:** Licensing Committee

**Date:** 24 September 2024 – 14.00 hours

**Subject:** Gambling Act 2005 Statement of Principles

**Purpose:** To Review the Current Statement of Principles

**Key Decision:** No

**Portfolio Holder:** Councillor Dale Broughton

**Report Of:** Senior Licensing Officer

**Report Author:** Anna McDowell

**Ward(s) Affected:** Not applicable

**Exempt Report:** No

### **Summary**

Section 349 of the Gambling Act 2005 requires that the Licensing Authority prepare, consult on, and adopt a statement of the principles that they propose to apply in exercising their functions under the Act. The Statement of Principles must be reviewed and published every three.

A revised Statement of Principles is required, by law, to be published by January 2025.

### **Recommendations**

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 2025.

### **Other Options Considered**

The Licensing Committee resolves not to approve the draft Statement of Principles. This course of action is not recommended as it would result in a failure to achieve the statutory three-year revision of the Statement of Principles.

## 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:

- Licensing premises where gambling activities are to take place;
- Issuing provisional statements;
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities;
- 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 for the use one or two gaming machines at premises licensed under the Licensing Act 2003 for the sale of alcohol for consumption on the premises;
- Issuing gaming machine permits, where there are more than two machines at premises licensed under the Licensing Act 2003 for the sale of alcohol for consumption on the premises;
- Registering small society lotteries which are operating below prescribed thresholds;
- Issuing prize gaming permits;
- Receiving and endorse temporary use notices (TUNs);
- Receiving 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 require a licence or permit.

1.2 The Act requires a licensing authority to carry out its functions 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 Council in its capacity as Licensing Authority cannot adopt a policy of limiting the number of Gambling Premises.

1.4 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.

- 1.5 The committee is requested to approve the draft Statement of Principles, including any amendments considered appropriate by the committee, and resolve that it is consulted on in accordance with the requirements of the Gambling Act 2005. A schedule of responses will be brought back to the committee for consideration following the consultation and a recommendation will be made that the final draft be approved and referred to Full Council for adoption.

## **2. Report**

### **2.1 Regulation**

- 2.1.1 Every 3 years, the Licensing Authority must 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, and published is January 2025.
- 2.1.2 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.
- 2.1.3 Operators of gambling premises such as betting shops, gaming centres and bingo providers must 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.

### **2.2 Policy Amendments**

- 2.2.1 The statistics for the population of Boston at page 4 of the Statement have been updated to reflect the most recent calculation from Census 2021.
- 2.2.2 The table on page 5 detailing the number of issued licences and permits has been amended to reflect the figures in effect at the time of this report.
- 2.2.3 Paragraph 6.2 at page 12 of the Statement has been amended as follows:

The text quoted from the Gambling Commissions Guidance to Licensing Authorities has been deleted following its removal from their guidance.

As required by the Commissions guidance, a paragraph has been added stating that the Licensing Authority makes a firm commitment to avoid duplication with other regulatory regimes, so far as possible.

- 2.2.4 Paragraph 13.1 at page 17 of the Statement have been updated to reflect the most recent quotation from the gambling Commissions Guidance.

### **2.3 Consultation**

- 2.3.1 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.

2.3.2 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.

### **3. Conclusion**

3.1 There is a statutory requirement to review the Gambling Act 2005 Statement of Principles every three years, and this must be completed by January 2025.

3.2 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.

3.3 Following the consultation, the final draft Statement of Principles will be brought back to Licensing Committee for approval with a recommendation it be referred to Full Council for adoption.

### **Expected Benefits to the Partnership**

None

### **Implications**

#### **South and East Lincolnshire Councils Partnership**

None

### **Corporate Priorities**

None

### **Staffing**

None

### **Workforce Capacity Implications**

None

### **Constitutional and 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.

### **Data Protection**

None

### **Financial**

None

### **Risk Management**

None

### **Stakeholder / Consultation / Timescales**

A four-week open consultation will be undertaken with relevant stakeholders as detailed in appendix 2 of the Statement of Principles.

### **Reputation**

Failure to adopt and publish the Statement of Principles by the statutory deadline be reputationally damaging to the Council.

### **Contracts**

None

### **Crime and Disorder**

The Council has a duty to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;

### **Equality and Diversity / Human Rights / Safeguarding**

The Council has a duty to protect children and other vulnerable persons from being harmed or exploited by gambling.

### **Health and Wellbeing**

None

### **Climate Change and Environmental Implications**

None

### **Acronyms**

*None*

## **Appendices**

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

Appendix A                      Draft Statement of Principles

## **Background Papers**

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

<b>Document title</b>	<b>Where the document can be viewed</b>
Gambling Commission Guidance to Licensing Authorities	<a href="http://gamblingcommission.gov.uk">Guidance to licensing authorities (gamblingcommission.gov.uk)</a>

## **Chronological History of this Report**

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

## **Report Approval**

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