



B O S T O N

AGENDA ITEM NO. 1

B O R O U G H C O U N C I L

REPORT TO:	LICENSING COMMITTEE
DATE:	6 NOVEMBER 2018
SUBJECT:	GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES
PORTFOLIO HOLDER:	COUNCILLOR PAUL SKINNER – PORTFOLIO HOLDER FOR REGULATORY SERVICES
REPORT AUTHOR:	FIONA WHITE – PRINCIPAL LICENSING & LAND CHARGES OFFICER
EXEMPT REPORT?	<i>No</i>

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 January 2019.

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.

The draft Statement of Principles attached at Appendix A was consulted on between 12 September and 25 October 2018. No responses to the consultation were received. Therefore there are no suggested further amendments to the original draft Statement considered by the Committee on 11 September 2018.

The Committee is requested to resolve the final draft be referred to the Council for adoption on 26 November 2018.

Following adoption by the Council the Statement of Principles will be published.

RECOMMENDATIONS

The final draft Statement of Principles be presented to Council on 26 November 2018 with a recommendation it be adopted.

REASONS FOR RECOMMENDATIONS

1. To ensure that the Statement of Principles is correctly considered and the appropriate procedural requirements for the Statement to be adopted are followed.
2. To ensure the Statement of Principles is adopted by January 2019.

ALTERNATIVES CONSIDERED

None.

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 require 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 2019.
- 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.
- 1.6 The Council in its capacity as Licensing Authority cannot adopt a policy of limiting the number of Gambling Premises.

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.
- 2.2 The Committee considered the draft Statement of Principles on 11 September 2018 and resolved that the statement be consulted on. The consultation took place between 12 September and 25 October 2018. A list of the persons or bodies consulted is attached at Appendix 2 of the Statement of Principles.

- 2.3 It is a requirement that the views of all consultees are given proper weight when determining the statement, however no responses to the consultation were received.
- 2.4 As no responses were received, the final draft Statement of Principles, a copy of which is attached at Appendix A, is unchanged from the initial draft considered by the committee on 11 September 2018.
- 2.5 It is **RECOMMENDED** the committee resolves that the final draft Statement of Principles be presented to Council on 26 November 2018, with a recommendation it be adopted.

3. CONCLUSION

- 3.1 There is a statutory requirement to review the Gambling Act 2005 Statement of Principles every 3 years and this must be completed by January 2019. The initial draft Statement was considered by the Licensing Committee following which a consultation on the Statement was undertaken.
- 3.2 Adoption of the Statement is a council function which cannot be delegated to cabinet or a committee and therefore the committee is requested to recommend the final draft Statement of Principles be presented to Council for adoption.
- 3.3 The Licensing Authority is required to adopt and publish its Statement of Principles by the end of January 2019. Failure to adopt and publish the Statement of Principles by the deadline would leave the Licensing Authority open to Challenge.

FINANCIAL IMPLICATIONS

The cost for stationery and postage for full consultation, estimated at a maximum of £100 was met from existing budgets. Consultation was, as far as practicable, carried out electronically to keep costs to a minimum.

LEGAL & EQUALITY IMPLICATIONS

Legal

The Licensing Authority is legally obliged to publish its Statement of Principles by the end of January 2019. 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.

Equality Analysis

An equality analysis was undertaken when the current Statement of Principles was published. This equality analysis will be revised and in doing so regard will be had to the public sector equality duty under section 149 of the Equality Act 2010.

ANY OTHER IMPLICATIONS

Risk Management

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

CONSULTATION

As detailed at paragraph 2 of this report and Appendix 2 of the Statement of Principles, a full consultation on the draft Statement of Principles has been undertaken.

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: -

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

CHRONOLOGICAL HISTORY OF THIS REPORT

<i>Name of body</i>	<i>Date</i>
<i>Licensing Committee</i>	<i>11 September 2018</i>

FINANCE PROFORMA

BOSTON BOROUGH COUNCIL

PROFORMA FOR EXECUTIVE 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: GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES
REPORT DATE: 6 NOVEMBER 2018

OPTION 1	£ Year 1 2018/19	£ Year 2 2019/20	£ Year 3 2020/21	£ Year 4 2021/22	£ Year 5 2022/23
Revenue	£100				
Total Revenue Cost	£100				

Funding required:		Considered by:	Date:
Total capital cost	£0	Licensing Committee	06.11.18
Revenue cost	£100		

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.