

BABERGH DISTRICT COUNCIL

TO: Licensing and Regulatory Committee	REPORT NUMBER: BLR/21/8
FROM: Elizabeth Malvisi – Cabinet Member for Environment	DATE OF MEETING: 15 October 2021
OFFICER: Katherine Green – Licensing Officer Kay Sanders – Licensing Officer	KEY DECISION REF NO. N/A

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES STATUTORY THREE-YEARLY REVISION

1. PURPOSE OF REPORT

- 1.1 To report back to the Licensing and Regulatory Committee the outcome of a full targeted and public consultation, which ran between 20 August 2021 and 16 September 2021, in respect of the above statutory policy revision relating to Gambling Act 2005 functions.
- 1.2 Since January 2007 local licensing authorities have been responsible for functions under the Gambling Act 2005, including issuing of licences and permits for gambling/gaming premises and associated matters.
- 1.3 Section 349 of the 2005 Act, requires each licensing authority to prepare and publish a statement of the higher-level principles it will apply when dispensing its various gambling functions. The 'Statement of Principles' must by law be reviewed and re-published every three years and sooner if so required. In 2021 the Authority revisited the statement which has been in effect since January 2019. This report seeks the approval by the Licensing and Regulatory Committee of the revised principles statement, now attached as **Appendix A**, for recommendation on to full Council so that it may be adopted for publication and ready to take effect from 31 January 2022.

2. OPTIONS CONSIDERED

- 2.1 Not applicable, Statutory consultation of a policy document.

3. RECOMMENDATION
3.1 That the post-consultation draft 'Statement of Principles' in respect of Gambling Act 2005 functions, as attached at Appendix A, be approved.
RECOMMENDATION TO COUNCIL
3.2 That the 'Statement of Principles' document be adopted.
REASON FOR DECISION
Statutory requirement to review and readopt the Council's Gambling Policy.

4. KEY INFORMATION

- 4.1 The Licensing and Regulatory Committee (Licensing Committee as per the 2003 Act) established under section 6 of the Licensing Act 2003 is responsible for dealing with matters under the Gambling Act 2005. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for full Council and include final approval of the three year 'Statement of Principles' document.
- 4.2 The 'Statement of Principles' must contain certain information as required by regulation. The statement must also have regard to guidance issued under section 25 of the Act by the Gambling Commission (a regulatory body independent of Central Government) and take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 4.3 The redrafted statement, attached as **Appendix A** to this report, contains amendments from the previous version published in 2019.
- 4.4 A summary of the changes made (brought to this Committee on 16 August 2021) from the 2019 statement to the redraft is attached to this report as **Appendix B**.
- 4.5 Generally, a licensing authority must when undertaking gambling licensing functions have regard to its own Statement of Principles and guidance issued by the Gambling Commission, as well as the licensing objectives and any codes of practice issued by the Gambling Commission.
- 4.6 The sixth edition of the 'Statement of Principles', once approved and adopted, shall take effect for a three-year period from 31 January 2022 (although it may be revised sooner if necessary). It will then become a primary point of reference for councillors, officers, applicants and other responsible/interested parties.

5. LINKS TO JOINT CORPORATE PLAN

- 5.1 The Council's Gambling 'Statement of Principles' is the overarching set of principles which guides the Councils in carrying out its Gambling Licensing functions. The policy assists in supporting businesses to thrive and prosper and also to help residents in their health and wellbeing where necessary.

6. FINANCIAL IMPLICATIONS

- 6.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory and consultation work within existing resources and fee structure, and by working collaboratively, wherever viable.
- 6.2 The discretionary (self-set) fee elements that Babergh are permitted to charge under the Gambling Act 2005, have been set at the maxima permissible under the Gambling Act 2005 fee regulations. These fee levels were re-adopted by the Licensing and Regulatory Committee for the Council on 16 August 2021, under the authority delegated to this Committee by the Council.

6.3 Periodic fee reviews should take place to ensure that as far as possible fee income meets the cost to the Licensing Authority of administering and maintaining the functions and minimise burden on local taxpayers.

7. LEGAL IMPLICATIONS/RISK MANAGEMENT

7.1 This report is most closely linked with the Council's Significant Business Risk No. 14 – Councils may be perceived to be untrustworthy and have a poor reputation. Operational risks 2A03 & 2A04 – If licensing functions are not delivered within prescribed framework/local policy/timeframe, then businesses will be impacted, and reputational harm/appeal likelihood will increase incurring financial loss.

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to review, revise and re-consult upon the policy will result in legal challenge to Council decisions under the 2005 Act (including potentially by Judicial Review)	3 – Probable	3 - Severe	Review, revise and re-consult on the Statement of Principles in accordance with the requirements of the Act, Regulations & Statutory Guidance
Failure to periodically review the fee structure in the context of cost recovery may disadvantage the Authority and local taxpayers, both in financial and reputational terms.	3 – Probable	3 - Severe	Fees for local gambling businesses, permit applicants and activity organisers should be transparent, considered and not act as any unnecessary deterrent to such activities taking place in the district.

8. CONSULTATIONS

8.1 This will be the sixth edition of the Council's 'Statement of Principles' under the Gambling Act 2005. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation has taken place. The consultation took place over a period of 28 days, through various channels/media.

8.2 Adoption of the Gambling Act 2005 'Statement of Principles' is a function reserved for full Council.

8.3 Following the consultation exercise Babergh received 1 response and this is attached to this report as Appendix C. From the responses received there are no further necessary changes which need to be made to the draft 'Statement of Principles'.

9. EQUALITY ANALYSIS

9.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and has had due regard to any comments received during the policy consultation on equality issues.

10. ENVIRONMENTAL IMPLICATIONS

10.1 There are no direct Environmental Implications arising from this report.

11. APPENDICES

Title	Location
(a) Statement of Principles (2019-2022) - DRAFT	Attached
(b) Summary of the changes made to the draft Statement of Principles document	Attached
(c) Consultation response received	Attached

12. BACKGROUND DOCUMENTS

12.1 Gambling Act 2005

12.2 Guidance to Licensing Authorities 5th Edition September 2015 (as amended September 2016).