

Draft Statement of Principles

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Purpose of the Report

To inform members of the consultation responses received in respect of the draft Statement of Principles for the three year period commencing January 2016.

Recommendation(s)

- (1) That the Committee agree the revised draft Statement of Principles under the Gambling Act 2005 and the suggested amendments;
- (2) That the Committee agrees the body to fulfil the Responsible Authority role to advise the Council on Protecting Children Harm is changed to Somerset Local Safeguarding Children Board;
- (3) That the agreed draft Statement of Principles is submitted to full Council for consideration and approval;
- (4) That Committee recommend that the Council delegate the power to make any minor amendments to the Statement of Principles to the Licensing Manager in consultation with the Assistant Director – Environment.

Background

The Licensing Committee gave its approval for the consultation of the draft Statement of Principles to take place at its meeting on 11 August 2015; the responses that were received up until 02 October are contained within this report together with any Officer comments. Members will be informed of any further responses as they are received up until the consultation closing date of 09 October 2015 and at the meeting.

Report Detail

The Gambling Act 2005 gives Licensing Authorities a number of important functions in relation to gambling. These functions include:

- licensing premises for gambling activities;
- considering notices given for the temporary use of premises for gambling;
- granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulating gaming and gaming machines in alcohol licensed premises;
- granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks; and
- registration of small societies' lotteries.

In administering these functions, the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives, namely:

- 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.

Consultation

The consultation period on the draft Statement of Principles commenced on 14 August and ceased 09 October 2015. The Gambling Act 2005¹ requires that we consult 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 the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

To ensure that an extensive consultation was carried out, 106 organisations and individuals comprising of Responsible Authorities, premises licence and permit holders, schools, town and parish councils were directly consulted (mainly by email); it was also advertised on our website and at the Council's main office at Brympton Way, Yeovil. A copy of the draft policy was sent to Chard, Langport, Wincanton and Yeovil libraries to represent each of the four areas covered by the Council. Four replies were received; the essence of which are reproduced below:

During the consultation the Somerset Local Safeguarding Children Board consented to become the Responsible Authority to fulfil the role of the body which is competent to advise the Council about the protection of children from harm. Should members agree to this change, the board will be designated in writing for this purpose².

Consultation Responses

Policy Section	Comment
General Comments	<p>“We welcome the opportunity to respond to this consultation. As a highly regulated industry, we also devote significant resources to regulatory compliance and fully support both the principle and practice of better working partnerships between local betting operators and local authorities. In our view the current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.</p> <p>We are therefore concerned that the guidance as currently drafted aims to alter the premises licence regime from that established in the Gambling Act and either intentionally or unintentionally increases the burdens on an already responsible business and prescribes additional</p>

¹ S349 Gambling Act 2005

² S157(h) Gambling Act 2005.

	<p>conditions above and beyond what has been currently agreed by the independent regulator.</p> <p>Officer Comment: Clarification has been requested on which paragraphs the above observation relates to.</p> <p>We hope that in responding to this consultation we can better support the implementation of an effective, consistent and clear local licensing regime which is mutually beneficial to operators and local authorities.”</p>
General Comment	'It all looks fine to me.'
1.4	<p>“I would not use the expression “on condition”. I would simply replicate the whole wording of s 153. It is an opaque provision, and if you use different wording it is practically guaranteed that one side or the other will say you have put a twist on it.”</p> <p>Officer comment: replace paragraph with:</p> <p>In exercising their functions under the Act the licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it— .</p> <p>(a) in accordance with any relevant code of practice under section 24, .</p> <p>(b) in accordance with any relevant guidance issued by the Commission under section 25, .</p> <p>(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and .</p> <p>(d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)). .</p>
1.19, 1.20, 1.21 2.60 1.5	<p>Remove paragraphs 1.19, 1.20, 1.21 and 2.60 in their entirety as BACTA Codes have now been confirmed as no longer being current.</p> <p>Similarly remove the last sentence “Where there is reference to BACTA’s voluntary codes, the Licensing Authority recognises that these are BACTA’s current codes on social responsibility for the gaming machines sector and merely recommends adoption of these voluntary codes.” From paragraph 1.5.</p> <p>Remove reference to BACTA from Glossary</p>
1.23	<p>“The proposed location of gambling premises may be taken into account when assessing the application. The Council is asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location”</p> <p>Officer comment: Whilst premises licences cannot be transferred to another location, the Gambling Act 2005 does not preclude an application for a new site</p>

1.29	<p>“You should delete all references to nuisance”</p> <p>Officer comment: replace paragraph with:</p> <p>The Licensing Authority recognises that disorder may be focused on premises and therefore expects an applicant to demonstrate an understanding of possible crime and disorder and to take such controls as are necessary to prevent such disorder. Examples may include thought given to the way that gambling is conducted on the premises, company policy on prevention of crime and disorder, siting of large pay out machines. Consideration, where relevant, will be given to the placing of appropriate conditions on the licence governing opening hours for betting shops in residential areas and in the case of disorder, the use of Door Supervisors. Where the Licensing Authority imposes a Door Supervision condition, if the supervisor is required by the Private Security Industry Act 2001 to hold a licence under that Act, the requirement shall be a condition of the licence.</p>
1.32 - 1.33	<p>“Whilst we fully accept that all gambling should be fair in the way it is played with transparent rules, we are concerned at the example in the consultation which states “examples may include easily understandable information being made available on the rules and probability of winning/losing”. As a responsible operator we already display comprehensive rules on fair play in all of our shops which covers the following areas – and many more which are not listed;</p> <ul style="list-style-type: none"> • Minimum age • Conduct • Responsible gambling • Fraud and error • Taking a bet • Paying for bets • Prices (including changes, starting prices, each way bets) • Contact details <p>It would be almost impossible to display the probability of winning / losing as this will vary depending on each bet that is placed on each race / sporting event / contest. Even if this could be published, the number of entrants often changes at the last minute due to non-runners for a number of reasons. In horse racing this could be because the runners may become lame, if the ground or going suddenly changes or it is reported wrongly or if runners are withdrawn because it was stated they would be equipped with blinkers (or other aids) and are found not to be when they enter the stalls.”</p> <p>Officer Comment: It is not expected that all establishments will display the probability of winning / losing as the general principles section in the SOP is written for all types authorisations that the Council are empowered to deal with and clearly states that “examples <u>may</u> include ...”; each case would be based on its own merits.</p>

<p>1.32 - 1.33 contd.</p>	<p>[Written Rules]'... we are concerned at the suggestion that font size must 11 or above. The feedback we have received from the Gambling Commission is that our information on fair play must be as comprehensive as possible. Therefore we would encourage a balanced approach to this, accepting that in order to provide customers with as much information as possible which still fits within the parameters of our shop space, the font size may need to be smaller than is currently suggested in this consultation. It should also be noted that as a responsible operator we also publish our rules around fairplay on our website which are accessible via a computer, tablet or mobile phone. It is crucial that any additional conditions around fair play are proportionate and achievable for operators and take into account the existing material which is already available to customers.”</p> <p>Officer Comment: Whilst carrying out inspections, I have found the font size to be quite small – I believe font 8 is used and have requested that a larger font is used as it does in my opinion disadvantage those that are visually impaired (although I was assured that staff members would advise if requested). The consultation response advises that rules are also accessible via a computer, tablet or mobile phone, however not everyone has access to them, which could include some of the more vulnerable adults. I have suggested to organisations that if space is an issue, the rules, terms and conditions could be printed on several A4 pages which could be laminated and threaded through a hole at the top; this would then provide a document that is more in keeping with Equalities and anti-discrimination legislation.</p>
<p>1.41 - 1.44; 1.47 - 1.50</p>	<p>“We welcome the focus on partnership working and that is one of the reasons we are a leading signatory to the ‘ABB-LGA Framework for local partnerships on betting shops’ which was published in January this year. We also have Primary Authority agreements with [X] Council and [X] Council which has resulted in greater clarity and consistency of regulation at a local level. In contrast, we are concerned that this guidance as currently drafted would lead to variations and inconsistencies which prove burdensome and costly for a business that operates across a multi-site estate in numerous different local authorities.”</p> <p>Officer Comment: Different local situations and issues will inevitably lead to different policies from Local Authorities and this is reflected in the Gambling Commission Guidance; the following are extracts from the Guidance:</p> <p>6.3 Statements of policy are likely to reflect differences in approach between different licensing authorities. The statement made by a seaside town licensing authority, which may see gambling businesses as an important part of its plans for growth and regeneration based on regular influx of visitors, may well be significantly different from that of an inner city authority, which may be more concerned with impact on the vulnerable. ...</p> <p>6.4 The Commission encourages licensing authorities to have a statement of policy that is genuinely reflective of local issues, local data, local risk and the expectations that a licensing authority has of</p>

	<p>operators who either currently offer gambling facilities or wish to do so in the future. The existence of a clear and robust statement of policy provides greater scope for licensing authorities to work in partnership with operators, other local businesses, communities, and responsible authorities to identify and to proactively mitigate local risks to the licensing objectives</p>
	<p>“Ladbrokes shops already operate strict age restrictions and we do not promote betting or gambling in our shop windows attractive to young children or vulnerable adults.</p> <p>We accept the importance of the premises design to mitigate risk, which is one of the reasons we install CCTV cameras in specific places to monitor activity (for example at the entrance and exit of the shop) and it is our policy, unless physically impossible, to locate machines in line of sight of our cashiers. Where this is not possible, we implement alternative measures to ensure that shop team are in a position to monitor the activity in the machines area of the shop.</p> <p>Security and health and safety risk assessments already detail control measures in this area which are effective in tackling these issues. Similarly, we do not accept the premise that the proximity of young people to betting shops should be regarded as an additional risk. We have strict policies and procedures in place to ensure that only those who are eligible to bet can do so. We have also invested in colleague training for the Challenge 21 policy, whereby any new customer who does not look old enough to bet is asked to provide identification. If official age verification is not provided, the customer will be asked to leave the premises. Ladbrokes also has a Primary Authority Partnership for age-restricted products.</p> <p>Our policies regarding compliance with the licensing objectives are supported by thorough staff induction training programmes followed by annual refresher training in the higher risk areas such as the prevention of underage gambling (Think 21) and tested through internal audit processes and, in the case of Think 21, test purchasing conducted by a third party service provider and the fact that those results are and other associated information is shared with the Gambling Commission.”</p> <p>Officer Comment: There are no specific references in the draft statement of principles to the proximity to young people to betting shops in particular; there are general references in paragraphs 1.23, 1.34, 1.39 and two references in 3.7.</p>
<p>1.34 - 1.40 Interested Parties 1.51 - 1.61</p>	<p>“There is a clear, existing process in place for interested parties or responsible authorities to make representations and we would therefore caution against statements of theoretical risk without any evidence to support the argument.”</p> <p>Officer Comment: Clarification has been requested on which paragraphs the above observation relates to.</p>

1.71 - 1.72	<p>"The Council is asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles. In line with the Government's Better Regulation Agenda, and the stipulation by the Council on Page 34 that they will seek to avoid duplication with other regulatory regimes, the Council should not impose any further provisions relating to door supervisors."</p> <p>Officer Comments: These paragraphs are generic in nature, as there are different types of premises licences issued under the Gambling Act 2005; further not all premises licence holders also have a premises licence issued under the Licensing Act 2003. The Licensing Committee may consider it appropriate to impose a condition relating the number of door supervisors required and/or for time(s) of the day that they are required to be present. Any conditions imposed by the Licensing Committee would be appropriate to the nature of the application Recommend that paragraph 1.71 remains and 1.72 is removed</p>
2.12, 2.18 & 2.45	<p>"The Commission will shortly be releasing a consultation signalling the death throes of primary activity (and its replacement by an analogous, but new, concept) so references to it will shortly become defunct."</p> <p>Officer Comments: amend paragraphs 2.12, 2.18 to remove reference to primary activity to read:</p> <p>2.12 The Gambling Commission has issued Codes of Practice relating to Bingo premises and the Licensing Authority expects all applicants to comply with these codes. The Licensing Authority shall determine Bingo Premises Licence applications in accordance with the Guidance issued by the Gambling Commission.</p> <p>2.18 The Licensing Authority shall determine Betting Premises Licence applications in accordance with the Guidance issued by the Gambling Commission.</p> <p>Remove paragraph 2.45</p> <p>2.45. The Licensing Authority supports the Gambling Commission's view that an operator should provide the primary activity specifically authorised by its Premises Licence in order to limit the number of gaming machines available for use on the premises. As such, the Licensing Authority shall expect applicants to comply with the Gambling Commission's Guidance on primary activity</p>
2.27	<p>"The Council should be aware that it may not be practical for racecourses to print examples of the Standard Rules of Betting (Tattersalls Rules) in their racecard or in a leaflet form. However, these will be displayed in line with the Premises Licence Mandatory and Default Conditions."</p>

2.46	Typo error replace 'cited' with 'sited'
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<p>Part 3 <i>Local Area Profiling</i></p>	<p>“From April 2016, under new Gambling Commission LCCP provisions, we are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. As a responsible business, we must take into account relevant matters identified in the licensing authority’s statement of licensing policy in their risk assessment, and review our policies where there are significant local changes.</p> <p>It is important that any changes or additional conditions are evidence based and as a result, deemed to have a real impact on the ability of betting operators to uphold any or all of the three licensing conditions. Such a list of factors, as outlined in section 3.5 and 3.7, based on opinion rather than fact, and therefore open to interpretation in many different ways, could result in an inconsistent licencing regime.</p> <p>Operators already take certain factors into consideration to ensure compliance with the licensing objectives, both in relation to new applications and existing licensed premises, and therefore it should be, as it is now, a matter for the local operator to decide how this is determined and what should be included. This being the case, only local risks that are evidence based, would be included in the risk assessment. We would therefore caution against the inclusion of certain named categories which operators are prescribed to take into account by the local authority, including educational establishments and general levels of crime.</p> <p>It is important to note that betting shops are often the victims of crime rather than a source of crime (burglaries, robberies etc). However, as a responsible business we would consider the existing levels of gambling and betting related crimes as well as the measures we can take to mitigate this risk before applying for a local licence. It is unclear and we would expect that other general levels of crime would not affect a licencing application.</p> <p>Instead, each case should be considered on its own merits and therefore we would caution against general statements that gambling premises should automatically face a higher burden of proof in these areas. Without any clear requirements in the revised licencing policy statements that additional licence conditions should be accompanied by robust evidence, this process could lead to unintended consequences and local shop closures and job losses.”</p>
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Further Information

For member's information, in the South Somerset area there are currently 380 authorisations issued by the Council in place; the table below shows a breakdown of the different types.

Premises Licence	Club Permits	Alcohol Licensed Premises Permit	Alcohol Licensed Premises Notification	Small Society Lottery Registrations	Family Entertainment Centre Permit
12 x Betting Shops	19 x Club Machine Permits (up to 3 Gaming Machines Categories B3A, B4, C or D)	9 (3 or more Category C or D gaming machines)	111 (Up to 2 Category C or D gaming machines)	196	1
1 x Track	1 x Club Gaming Permit				
1 x Bingo					

Financial Implications

There are no additional financial implications of the proposals contained within this report except for the cost of the consultation.

Implications for Corporate Priorities

The issues raised in this report impact upon the following objective as identified with the Council's Corporate Plan 2012-2015:

- Focus One – Jobs. Strong economy which has low employment and thriving businesses
- Focus Four – Health & Communities

Equalities Impact of the Proposal

The impact of these proposals is assessed as 'low' against the Council statutory responsibilities. There are potential implications with respect to human rights.

Environmental and Climate Change Considerations

There is minimal environmental impact of these proposals.

Other Implications

Licensing is a statutory undertaking. Should a Statement of Principles relating to gambling not be adopted, it would leave South Somerset District Council in a position of being unable to undertake its statutory responsibilities and functions under the Act.

Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

Background Papers: *Gambling Act 2005*
Gambling Commission Guidance to Licensing Authorities 4th
Edition Published September 2012 as amended 2013
Gambling Commission Draft Guidance to Licensing
Authorities 5th Edition published March 2013
Guidance on Undertaking Local Gambling Risk
Assessments – City of Westminster
