

Cheltenham Borough Council
Council – 21 February 2022
Gambling Act 2005 Statement of Principles

Accountable member	Councillor Martin Horwood, Cabinet Member Customer & Regulatory Services
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>The Gambling Act 2005 requires that the authority produce, consult on and publish a statement of the principles that they propose to apply when exercising their functions under the Act.</p> <p>The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.</p> <p>Cheltenham Borough Council published its existing Statement of Principles in 2019.</p> <p>On 21 December 2021, Cabinet considered the consultation feedback and resolved to recommend to Council that the revised policy should be adopted.</p>
Recommendations	<p>Council is recommended to:</p> <ol style="list-style-type: none"> 1. Note the proposed changes to the Statement of Principles; 2. Note the consultation feedback; and 3. Adopt the revised Gambling Act 2005 Statement of Principles.

Financial implications	There are no financial implications arising from this report. Contact officer: Andrew Taylor, Andrew.Taylor@cheltenham.gov.uk
Legal implications	Section 349 of the Gambling Act 2005 requires the Licensing Authority to produce a Statement of Gambling Principles every three years which it will apply in exercising its functions under the Act during that period. Contact officer: Vikki.fennell@onelegal.org.uk, 01684 272015
HR implications (including learning and organisational development)	No specific HR implications as a result of this report. Contact officer: Clare Jones – HR Business Partner, clare.jones@publicagroup.uk,
Key risks	As identified in Appendix 1
Corporate and community plan Implications	Cheltenham has a strong and sustainable economy Communities feel safe and are safe.
Environmental and climate change implications	None
Property/Asset Implications	None

1. Background

- 1.1 Cheltenham Borough Council (“the authority”) is required under section 349 of the Gambling Act 2005 to review and republish its Statement of Principles every three years.
- 1.2 The authority must also ensure that they comply with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (S.I 636 of 2006). These regulations govern the form statements must take, the procedure to be followed in relation to the preparation, review or revision of statements and the publication of statements.
- 1.3 These regulations require that a Statement is published by being made available for a period of at least 4 weeks before the date on which it will come into effect:
 - 1.3.1 on the Authority’s website, and
 - 1.3.2 for public inspection in one or more public libraries, or other premises in the Borough, such as the Council Offices.
- 1.4 The Commission has published guidance to licensing authorities and the authority has a statutory obligation to have regard to this guidance.
- 1.5 The revised draft ‘Statement of Principles’ attached at **Appendix 2** takes account of changes made to the Commission’s guidance since the authority’s last Statement of Principles was published.
- 1.6 A review has been undertaken in accordance with the statutory requirements. Given that there have been no substantial changes to legislation and national guidance, the proposed changes to the Gambling Policy Statement are minimal.
- 1.7 In May 2021, the statutory guidance was updated, although the Commission commented that it did not consider that licensing authorities would have to make any significant changes (if any) to their Statement of Policy in relation to the new statutory guidance, given that the changes were minimal and of no significant importance.
- 1.8 As such, and aside from minor updates, the only section of the Statement of Principles that has seen any substantial updates is Section 5 that deals with local risk assessments for premises. This section has been updated to strengthen and clarify the local expectations relating to risk assessments.

Proposed Changes

- 1.9 Proposed changes to the policy are (apart from a general reorganisation):
 - 1.9.1 Local Risk Assessments – Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks.
 - 1.9.2 Changes to Section 5, seek to strengthen local risk assessments, by clarifying what this authority will expect the local risk assessment to consider as a minimum.
 - 1.9.3 Updates to gaming machine stakes and prizes (Appendix E)
 - 1.9.4 Other minor updates, as outlined in the draft statement of licensing policy.
- 1.10 The work to create local area profiles is still ongoing. This work requires input from GCC Public Health, but due to the Covid pandemic, this work has not yet started. The Statement of Policy notes (Section 4) that this work is yet to be completed, but this will not be done prior to the

adoption of this iteration of the policy review.

- 1.11 For the sake of ease, tracked changes have been preserved on the revised policy statement to allow Members easy access to these changes.

2. Gambling Act 2005

- 2.1 The Gambling Act 2005 is the primary legislation regulating all forms of gambling activity in the UK. Under the Act, gambling is defined as:

- gaming (within the meaning of section 6);
- betting (within the meaning of section 9); and
- participating in a lottery (within the meaning of section 14).

- 2.2 The Act sets out a number of licensing objectives that the authority is bound by when discharging any of its functions under the Act:

- a. preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- b. ensuring that gambling is conducted in a fair and open way; and
- c. protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 2.3 Section 153 of the 2005 Act (“Principles to be applied”) states that:

In exercising their functions under this Part *a licensing authority shall aim to permit the use of premises for gambling* in so far as the authority think it—

- a. in accordance with any relevant code of practice under section 24,
- b. in accordance with any relevant guidance issued by the Commission under section 25,
- c. reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
- d. in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

3. Reasons for recommendations

- 3.1 To ensure the authority can effectively meet its obligations under the Gambling Act 2005 in relation to reviewing the Statement of Principles.

4. Alternative options considered

- 4.1 The authority can readopt its existing policy without making any changes.

5. Consultation and feedback

- 5.1 When reviewing its Statement of Principles, the council is required to consult with:

- the chief officer of police for the authority’s area,
- 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.

5.2 Consultation has now been undertaken in accordance with the statutory requirements. One response was received attached at **Appendix 3**. The draft policy document has been updated in accordance with the comments received on page 6 of **appendix 2**.

5.3 On 21 December 2021, Cabinet considered the consultation feedback and resolved to recommend to Council that the revised policy should be adopted.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Draft Statement of Principles3. Consultation responses
Background information	<ol style="list-style-type: none">1. Draft Statement of Principles – Adopted 20192. Gambling Act 20053. Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (S.I 636 of 2006)4. Guidance to Licensing Authorities 4th Edition (April 2021)5. Cabinet Meeting held on 21 December 2021

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	<p>Failure to publish a revised Statement of Principles within the required timescale would leave Cheltenham Borough Council in breach of its statutory obligations.</p> <p>This could lead to legal challenges, costs to the council and adversely affect the council's reputation.</p>	Licensing Team Leader	October 21	2	4	8	Accept	Adopt the revised statement of policy.	Feb 22		
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											