

WEST DUNBARTONSHIRE LICENSING BOARD

Report by the Clerk to the Licensing

Meeting of the Licensing Board - 7 May 2024

Subject: Gambling Act 2005: Review of the Licensing Board's Statement of Principles

1. Purpose

- 1.1** To obtain the Licensing Board's approval to consult on a refresh of its Statement of Principles and to develop a local area profile.

2. Recommendations

- 2.1** It is recommended that the Licensing Board:-

- (a) approve the terms of the draft Statement of Principles at Appendix 1 (subject to any further minor amendments thought necessary by the Clerk);
- (b) authorise the Clerk to consult with the public, trade and any other relevant stakeholders on the terms of the draft Statement of Principles;
- (c) agree that the Clerk will work with Police Scotland, the Council, health partners, and other relevant agencies to develop an updated local area profile; and
- (d) thereafter, instruct that a report is brought back to a future meeting of the Licensing Board so to consider the consultation responses and local area profile.

3. Background

- 3.1** In terms of Section 349 of the Gambling Act 2005 ("the Act"), the Licensing Board is required to publish a Statement of Principles that sets out how it will exercise its functions under the Act. This Statement of Principles must be reviewed every three years. It is now time to review the current Statement of Principles with the current Statement having been adopted on 31 January 2022.
- 3.2** The Statement of Principles is the Licensing Board's mandate for managing local gambling provision and sets out how the Licensing Board views the local risk environment and therefore its expectations in relation to operators with premises in the locality.
- 3.3** The UK Government in April 2023 published its review of gambling legislation that sets out the Government's plans for modernising the regulation of gambling. This review noted that the Government intends, when Parliamentary time allows, to introduce an overprovision like test, similar to that in the alcohol licensing legislation. Such legislation is still awaited and therefore, the Licensing Board

cannot consider overprovision of gambling licensed premises at this time.

4. Main Issues

4.1 The Licensing Board has a duty to promote the statutory licensing objectives and therefore the Statement of Principles must promote these objectives of:-

- preventing gambling from being a source of crime and 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

4.2 Members will note that the Act places a legal duty by way of Section 153 to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that the Licensing Board must approach their functions in a way that seeks to regulate gambling by using their powers, for example, by attaching conditions to a premises licence as opposed to starting out to prevent gambling altogether.

4.3 The form of the Statement of Principles is determined by regulation and its' contents must comply with the Gambling Commission's Guidance to Licensing Authorities and reflect the Gambling Commission's Licence Conditions and Codes of Practice.

4.4 Officers have reviewed the current Statement of Principles and have made a number of amends. These amends are relatively minor or technical in nature. Table 1 narrates the changes made and the rationale.

Paragraph	Change	Note
Foreword	Deleted.	Will be updated post consultation.
<i>Part A</i>		
3.2	Deleted text relating to the location of schools and other community facilities.	This information will form part of the local area profile.
5	Deleted details of the prior consultation.	Will be updated post consultation.
7.2	Deleted reference to the West Dunbartonshire Community Planning Partnership.	Clarifying that the responsible authority in relation to the protection of children from harm is the West Dunbartonshire Child Protection Committee.
9.2	Amended reference to Freedom of Information legislation.	Clarifying that the Scottish legislation is relevant here.
10.5	Inserted paragraph clarifying that while the Licensing Board has	A drafting error in the Gambling Act 2005

	narrated its approach to enforcement and compliance, it requires the legislation to be clarified around the authorisation of Council Officers.	means that, in Scotland, Licensing Standards Officers cannot be authorised to undertake gambling enforcement and compliance work.
10.6	Removed reference to enforcement and compliance protocols.	Given that no Officers are authorised to carry out compliance and enforcement work, these documents do not exist.
10.7	Removed suggestion that contact details for senior individual in bookmakers would be made available.	This requirement is unenforceable.
<i>Part B</i>		
1.10	Inserted paragraph confirming that when the Licensing Board is considering a premises licence application for a finished building it cannot have regard to planning or building regulations.	Confirms that the Licensing Board must only have regard to matters flowing from the Gambling Act 2005.
1.11	Deleted duplicate text around how decisions are made and information as to Police Scotland's position relating to bookmaker type premises.	Making sure that the document is readable and recognising that Police Scotland's position has changed since the last consultation.
<i>Other</i>		
Appendix 6	Deleted.	Will be updated post consultation.
Various	Correcting typographical and grammatical issues.	Improves the readability of the document.

Table 1

Significant deletions as noted above have been retained in the draft document and show as struck out and significant insertions have been highlighted. This formatting is to assist Members only and will be removed when the document goes out for consultation.

4.5

As part of this review, the Licensing Board's local area profile requires to be updated. This is an assessment of the local environment so to identify local areas of concern. The Gambling Commission suggests that through the local area profile, both the licensing authority and gambling operators will develop a better awareness of the local area and risks. This will allow parties to consider how best to mitigate these risks. Therefore, the local area profile will be referred to the Statement of Principles so that potential applicants can review the profile and tailor their risk assessments to have regard to the risks highlighted through the profile, for example, the proximity of a school or rehabilitation centre.

4.6 The local area profile will be a document separate from the Statement of Principles so that it can reviewed and updated from time to time without the need for a full consultation of the Statement of Principles. The Statement of Principles will, however, narrate that the Licensing Board will have regard to the Statement of Principles when exercising its functions.

4.7 Officers will work with officers from Police Scotland, the Council, NHS and the Health and Social Care Partnership to identify relevant information and thereafter develop a robust and up to date local area profile.

5. People Implications

5.1 There are no personnel issues for the Council arising from this report.

6. Financial Implications

6.1 There are no financial implications.

7. Risk Analysis

7.1 There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

8.1 [TO BE UPDATED] Awaiting sign off. Full EIA and will be attached.

9. Consultation

9.1 The Act sets out the framework for consulting on the reviewed Statement of Principles. The Licensing Board must consult:-

- the Chief Constable of Police Scotland;
- 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.

9.2 The Clerk will engage with the Council's Performance & Strategy Officer to discuss how best to engage with the public and gambling trade.

10 Strategic Assessment

10.1 This review of the Statement of Principles will help make sure that Our Communities are Resilient and Thriving.

Chief Officer: Regulatory and Regeneration

Date 16 April 2024

Person to Contact:

Michael McDougall
Depute Clerk
West Dunbartonshire Licensing Board
Municipal Buildings
College Street
Dumbarton
G82 1NR

michael.mcdougall@west-dunbarton.gov.uk

Appendix

Appendix 1 – Proposed Statement of Principles

Appendix 2 - EIA

Background Papers

Gambling Act 2005

Gambling Commission, Guidance to Licensing Authorities, last updated 11 April 2023

Gambling Commission, Licence Conditions and Code of Practice.