

WEST DUNBARTONSHIRE LICENSING BOARD

Report by the Clerk to the Licensing Board

14 October 2021

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

1. Purpose

- 1.1** To seek the approval of the Board to consult on a review of the Board's Statement of Principles under the Gambling Act 2005.

2. Recommendations

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

- (i) to approve the terms of the draft Statement of Principles at Appendix 1 for consultation;
- (ii) to seek views on any factors that the Board may consider as relevant to its Local Area Profile within its Statement of Principles;
- (iii) to authorise the Clerk to the Board to consult the bodies and persons listed at Appendix 2 of the draft Statement of Principles on the terms of the draft in accordance with the Statutory Guidance from the Gambling Commission; and
- (iv) following consultation, to receive a further report with a final version of the Statement of Principles for consideration and approval.

3. Background

- 3.1** In terms of Section 349 of the Gambling Act 2005 ("the Act"), West Dunbartonshire Licensing Board requires to publish a Statement of Principles ("The Statement") that it proposes to apply in exercising its functions under the 2005 Act for a three year period. It is now time to review the current Statement. The Statement in terms of the Act should be in place by 31 January 2022.
- 3.2** The Statement must incorporate the statutory licensing objectives and must comply with the Gambling Commission's Guidance ("the Guidance"). The guidance was last updated on May 2021. A link to the guidance is attached at Appendix 3.
- 3.3** Since the Licensing Board last considered their Statement of Principles, the following material changes have been introduced.

- Self-Exclusion Schemes – schemes whereby a person may ask to be refused service at betting premises has been extended to all premises-based licences.
- Children in Bingo Premises – this section of the guidance has been updated to give clarity on the subject of young persons who may work in bingo premises.
- Gaming Machines – Section 235 of the act has been clarified to inform the terms under which Self-Serve Betting Terminals (SSBTs) can be considered to be Gaming Machines and which controls should apply when a SSBT is considered to be a Gaming Machine.

3.4 All of the changes specified at 3.3 above have been included within the draft statement of principles appended to this report. Note that all changes have been highlighted in red ink, for ease of reference.

3.5 There are further technical changes to the Guidance which do not compel any further changes to the Statement of Principles. A list of all the changes can be found in Appendix 3.

4. Main Issues

4.1 A Board's Statement must begin by stating the three licensing objectives (Section 1 of the 2005 Act), which the policy will promote:

- 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 In terms of Section 153 of the 2005 Act there is an "aim to permit" the use of premises for gambling in so far as the Licensing Authority thinks that permission is:

- a) in accordance with any relevant code of practice.
- b) in accordance with any relevant guidance issued by the commission.
- c) reasonably consistent with the licensing objectives.
- d) in accordance with the Board's Statement of Principles.

4.3 There is a requirement that the Statement should state that the Licensing Authority shall "aim to permit" the use of premises for gambling, as set out in terms of Section 153 of the Act. There are no comparable provisions in the 2005 Act to the "overprovision" stipulations found in liquor licensing. The licensing objectives are different from liquor licensing, and restricted to the three objectives. A licensing authority accordingly, must restrict itself to consideration of the three licensing objectives and matters related to them. The Guidance also encourages authorities not to refuse licensing applications where relevant objections can be dealt with through the use of licence conditions. An authority's decision cannot be based on the dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area.

4.4 As the Licensing Board may recall from the previous Statement of Principles there is a requirement that the authority complete a 'local area profile'. This process will be

completed as part of the consultation process and partners and key stakeholders such as Police Scotland, Education, The Health and Social Care Partnership et al have all been notified to start compiling the updated data which will inform their consultation responses.

5. People Implications

5.1 There are no people implications.

6. Financial and Procurement Implications

6.1 There are no financial or procurement implications.

7. Risk Analysis

7.1 The Statement requires to be reviewed every three years. The Statement requires to be in place so the Board has a current policy framework to deal with gambling applications. The Statement should be in place by 31 January 2022. The Statement requires a minimum of a 4 week advertisement period before it comes into effect on that date.

8. Equalities Impact Assessment (EIA)

8.1 The Board's original Statement was subject to an Equality Impact Assessment. An Equality Impact Assessment/Screening will be concluded and will address the recommendations made to the Board in December 2021.

9. Consultation

9.1 Section 349 (3) of the Act requires the Chief Constable to be consulted on the Statement, 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 the Act.

9.2 The attached draft Statement of Principles at appendix 2 outlines the names of parties in addition to the above who will be consulted. Thereafter, once the revised Statement is approved taking into account any representations, then the Board will require to publish the Statement on the authority's website, and make the Statement available to members of the public for at least four weeks prior to the date when the Statement will come into effect.

10. Strategic Assessment

10.1 The Statement is a requirement of the Gambling Act 2005. It is a three year statement.

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Appendix: Appendix1- Draft Statement of Principles

Appendix 2 - Consultees List

Appendix 3 - A link to the Gambling Commission -
Guidance to Licensing Authorities and details of Changes
to the Guidance for Licensing Authorities - Gambling
Commission.

Background Papers: The Gambling Act 2005

Wards Affected: All