

**Agenda Item No:** 4  
**Report To:** LICENSING COMMITTEE  
**Date of Meeting:** 17 November 2021  
**Report Title:** Statement of Principles for Gambling  
**Report Author & Job Title:** Trevor Ford  
Environmental Protection & Licensing Team Leader  
**Portfolio Holder** Cllr. Peter Feacey  
**Portfolio Holder for:** Community Safety and Wellbeing



<b>Summary:</b>	The purpose of this report is to present the review and consultation of the Ashford Borough Council's Statement of Principles for Gambling for 2022-2025
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**Key Decision:** NO

**Significantly Affected Wards:** All

**Recommendations:** **The Committee is recommended to:-**

- i. **Note the review of the existing statement of principles, and consultation responses.**
- ii. **Recommend the republishing of the Statement of Principles for Gambling 2022-2025 to council.**

**Policy Overview:** The determination of gambling licences and permits is a statutory duty and provides protection to prevent gambling being a source of crime and disorder, to ensure gambling is conducted in a fair and open way, and, to protect children and other vulnerable persons from being harmed or exploited by gambling.

Our statement of principles for gambling guides members of the public, applicants, elected members, and officers on such matters.

The development the Statement of Principles for Gambling 2022-2025 is a statutory duty

**Financial Implications:** None

**Legal Implications** None

<b>Equalities Impact Assessment</b>	See attached
<b>Other Material Implications:</b>	None
<b>Exempt from Publication:</b>	<b>NO</b>
<b>Background Papers:</b>	Gambling Policy Statement 2019-2022 available via; <a href="https://www.ashford.gov.uk/media/q3vjxnfr/abc-gambling-policy-2019-2022.pdf">https://www.ashford.gov.uk/media/q3vjxnfr/abc-gambling-policy-2019-2022.pdf</a>
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## Report Title:

# Statement of Principles for Gambling

## Introduction and Background

1. The purpose of this report is to present to the Licensing Committee the review of Ashford Borough Council's Statement of Principles for Gambling and result of the statutory consultation, which as a statutory document must be published prior to the 1 February 2022.
2. The copy the current statement of principles is referenced in the background papers associated with this report.
3. At the time of writing this report, the authority current administer;
  - 10 betting (non-track) premises
  - 1 bingo premises
  - 2 adult gaming centres
  - 60 lottery registrations
  - 57 'automatic' gaming machine notifications
  - 8 licensed premises gaming machine permits
  - 4 club machine permits
4. The determination of gambling permits and licence applications is a statutory duty and aims to prevent gambling from being a source of crime and disorder, ensures that gambling is conducted fairly and openly, and that children and vulnerable persons are protected from harm or exploitation by gambling.
5. There is a general principle to permit gambling under section 153 of the Gambling Act 2005, and that when determining an application the Licensing Authority cannot take into account;
  - Expected demand for a gambling premises
  - Planning or building restrictions
  - Moral or ethical objections to gambling
  - Dislike of gambling
  - A general notion that gambling is undesirable
6. It should however be noted that not all areas of gambling are regulated by the Licensing Authority, but responsibility is split with the Gambling Commission. As such, some topics that receive higher levels of public interest such as maximum stakes are not within the control of the council.
7. A policy relating to the determination of applications not only guides the decision-maker but also services to inform an applicant about what they should consider in preparing their application.

8. The statement of principles sets out how the council will approach the making of decisions, indicating what the council considers to be important, what control measures it will be looking for, and so forth.
9. It is vital that the policy does not turn into a rule that is applied inflexibly and fetters the exercise of discretion. There must be a willingness to consider individual applications on their particular merits.
10. The current statement of principles expires on the 31 January 2022, and the proposed re-publishing of the statement of principles for gambling acts to ensure that we continue to have an up to date statement of principles.

### **Proposal/Current Position**

11. Following the statutory consultation, described later in this report, no responses were received from; statutory consultees, holders of Gambling Act authorisations within the borough, or, other interested parties.
12. Further review of the statement of principles, has also not revealed any changes to relevant legislation, statutory guidance, or local changes, which appear to justify any change to the council's policy and approach with respects to gambling.
13. It should however be noted that the Gambling Commission's Guidance to Licensing Authorities was last updated in May 2021
14. Therefore based on the consultation and review, it is proposed to republish the Statement of Principles for Gambling for the period 2022-2025 with relevant updates to administrative non-policy areas (i.e. the foreword, borough demographics, etc.)

### **Implications and Risk Assessment**

15. The update to this policy is not anticipated to have any significant implications.
16. Judicial Review is a risk if the policy strays beyond the requirements of the Act, or restricts legal activities without due and appropriate cause

### **Equalities Impact Assessment**

17. The policy will affect all persons involved in or affected by a relevant licensable activity in the borough, irrespective of gender, race, disability, sexuality or age. Recipients of the policy include holders of licences, members of licensing sub-committee, authorities e.g. Kent Police, Kent Fire & Rescue Service, etc. and all of the borough's businesses, residents of the borough and those who visit and use local gambling offerings.
18. An updated equalities impact assessment is attached as *Appendix A*

### **Consultation Planned or Undertaken**

19. Consultation of the Statement of Principles for Gambling is a statutory requirement.

20. The public consultation ran from 1 September 2021 for eight weeks.
21. During the public consultation a public notice was displayed at the Civic Centre, an advert published in the local paper, published online, and relevant bodies were written to.
22. Details of bodies consulted are provided within the statement of principles.

### **Other Options Considered**

23. As a statutory requirement under the Gambling Act 2005, the Licensing Authority must publish a Statement of Principles for Gambling for 2022-2025.
24. Whilst the Statement of Principles for Gambling must contain certain information as defined, the expectations of the Council are to an extent open to allow local considerations to be taken into account.

### **Reasons for Supporting Option Recommended**

25. During the review of the 'Statement of Principles for Gambling' legislation, guidance, and consultation feedback has been considered.
26. The republishing of the document will ensure that the policy remains up to date, and can be usefully applied by the council, officers, applicants, and the general public.

### **Next Steps in Process**

27. Following adoption by Full Council the updated draft Statement of Principles for Gambling will be published on the council's website, and made available at the Civic Centre. Additionally a final notice will be published on the council's website and at the Civic Centre stating where the document can be inspected, the date it would be published, and the date in which it will take effect.
28. The above elements form part of the statutory publishing requirements.
29. The final Statement of Principles will be subject to statutory review after three years, along with any periodic review brought about by changes in the council's approach, or change to relevant legislation

### **Conclusion**

30. The republishing of this document is based on the need to protect the general public and vulnerable persons from the potential harms associated with gambling.
31. It is recommended that the Licensing Committee recommend the republishing of the Statement of Principles for Gambling to Full Council.

## **Portfolio Holder's Views**

32. “The re-publishing of the statement of principles ensures that the council can continue to effectively protect to the general public and vulnerable persons (including children, those suffering with addiction problems, and, those with mental health issues) from potentially adverse effects of gambling”  
Councillor Peter Feacey

## **Contact and Email**

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## **Appendix A: Equalities Impact Assessment**

# Equality Impact Assessment

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1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

## Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

## Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership\*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

## Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

**Case law principles**

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

# Equality Impact Assessment

<b>Lead officer:</b>	Trevor Ford
<b>Decision maker:</b>	Full Council
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	To agree to the publishing of the Statement of Principles for Gambling 2022-2025.
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	9 December 2022
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>The report seeks to approve a Statement of Principles for Gambling 2022-2025.</p> <p>The proposed document is effectively a republishing of the existing Statement of Principles, following a review and statutory consultation. As such, there are no 'new' areas of policy.</p> <p>It is expected that members of the general public may be affected by the policy by means of access local gambling provision. Businesses providing gambling services will also be affected as to the requirements associated with their premises type.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key findings.</li> </ul>	Research conducted as part of the revision of the policy includes; <ul style="list-style-type: none"> <li>• Legislative changes</li> <li>• Best practice guidance</li> <li>• General gambling licensing research</li> </ul>
<b>Consultation:</b> <ul style="list-style-type: none"> <li>• What specific consultation has occurred on this decision?</li> <li>• What were the results of the consultation?</li> <li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>• What conclusions can be drawn from the analysis on how the decision will affect</li> </ul>	<p>See report for full details of the statutory consultation process.</p> <p>The consultation resulted in in no responses, and as Such there are no changes to the proposed policy.</p>

people with different protected characteristics?		
<p><b>Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.</b></p> <p>When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.</p>		
<b>Protected characteristic</b>	<b>Relevance to Decision</b> High/Medium/Low/None	<b>Impact of Decision</b> <b>Positive</b> (Major/Minor) <b>Negative</b> (Major/Minor) <b>Neutral</b>
<u>AGE</u> Elderly	Medium	Neutral
Middle age	Medium	Neutral
Young adult	Medium	Neutral
Children	High	Neutral
<u>DISABILITY</u> Physical	Medium	Neutral
Mental	High	Neutral
Sensory	Medium	Neutral
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u> Men	Low	Neutral
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

<p><b>Mitigating negative impact:</b> Where any negative impact has been identified, outline</p>	N/A
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the measures taken to mitigate against it.	
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<b>Is the decision relevant to the aims of the equality duty?</b>	
Guidance on the aims can be found in the EHRC's <a href="#">Essential Guide</a> , alongside fuller <a href="#">PSED Technical Guidance</a> .	
<b>Aim</b>	<b>Yes/No</b>
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

<p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>Consider how due regard has been had to the equality duty, from start to finish.</li> <li>There should be no unlawful discrimination arising from the decision (see guidance above).</li> <li>Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>The legislative provisions relevant to this Statement of Principles for Gambling provides for the protection of children and vulnerable persons.</p> <p>The re-publishing of the statement of principles are not considered to have any negative impacts on equality</p> <p>Monitoring of the policy will be undertaken formally prior to expiry (three years). Additional review may be required should there be any change in legislation or a particular urge to change Council policy during the lifetime of the document.</p> <p>In addition the council's revised policy register will assist the service to meet this</p>
<b>EIA completion date:</b>	1 November 2021