

# LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>LICENSING COMMITTEE</b>  <b>SCRUTINY AND OVERVIEW COMMITTEE</b>  <b>CABINET</b>
<b>DATE OF DECISION</b>	<b>18 NOVEMBER 2024 (Licensing)</b>  <b>19 NOVEMBER 2024 (Scrutiny)</b>  <b>20 NOVEMBER 2024 (Cabinet)</b>
<b>REPORT TITLE:</b>	<b>THE GAMBLING ACT 2005 – REVIEW OF LONDON BOROUGH OF CROYDON STATEMENT OF PRINCIPLES</b>
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>NICK HIBBERD CORPORATE DIRECTOR – SUSTAINABLE COMMUNITIES, REGENERATION AND ECONOMIC RECOVERY</b>
<b>LEAD OFFICER:</b>	<b>MICHAEL GODDARD - HEAD OF ENVIRONMENTAL HEALTH, TRADING STANDARDS AND LICENSING</b>
<b>LEAD MEMBER:</b>	<b>COUNCILLOR SCOTT ROCHE</b> <b>CABINET MEMBER FOR STREETS &amp; ENVIRONMENT</b>
<b>DECISION TAKER:</b>	<b>AS DETAILED IN RECOMMENTATIONS BELOW</b>  <b>ADOPTION RESERVED to FULL COUNCIL</b>
<b>AUTHORITY TO TAKE DECISION:</b>	<p><b>APPROVAL OF A THREE-YEAR STATEMENT OF PRINCIPLES UNDER SECTION 349 OF THE GAMBLING ACT 2005 is reserved to Full Council under Article 4.02 of Part 2 of the Constitution.</b></p> <p><b>The Licensing Committee has the responsibility to comment on the three-year Statement of Principles in respect of the Authority’s functions under the Gambling Act 2005 prior to its adoption by the full Council; and to make recommendations to the full Council on all Licensing functions under both the Gambling Act 2005 and the Licensing Act 2003 where those functions are reserved to full Council. (Part 3 of the Constitution)</b></p> <p><b>As a matter which is part of the Budget and Policy Framework, and as provided by Part 4C of the Constitution, it is open to the Scrutiny and Overview Committee to comment on the policy proposals and the response from the Scrutiny and Overview Committee is taken into account in proposals for submission to Council. The report to Full Council will reflect how any comments have been taken into account.</b></p> <p><b>The Executive shall be responsible for the preparation of proposed plans, strategies or budgets that form part of the Budget and Policy Framework. For the purposes of these rules, ‘plan or strategy’ includes A plan or strategy specified in Article 4 (Appendix) to Part 2 of the Constitution. The Executive will take any response from the</b></p>

	<b>Scrutiny and Overview Committee into account in drawing up proposals for submission to the Council. The Executive’s report to the Full Council will reflect how they have taken into account the recommendations of the Scrutiny and Overview Committee and/or their reasons for not doing so. (Part 4C Constitution)</b>	
<b>KEY DECISION?</b>	<b>No</b>	REASON: N/A  <b>ADOPTION OF THE STATEMENT OF PRINCIPLES IS RESERVED TO FULL COUNCIL</b>
<b>CONTAINS EXEMPT INFORMATION?</b>	<b>NO</b>	Public
<b>WARDS AFFECTED:</b>		<b>All</b>

## 1 SUMMARY OF REPORT

- 1.1** The Gambling Act 2005 (the Act) came into force on 1<sup>st</sup> September 2007 and imposes various statutory duties on the Council in its role as Licensing Authority under the Act. The purpose of this report is to detail the outcome of the statutory consultation undertaken between 3 October 2024 and 1 November 2024 in respect of the of the Statement of Principles under the Gambling Act (“the Statement of Principles”), which must be undertaken every three years, and to make recommendations concerning the consideration and adoption of a Statement of Principles for 2025 – 2028 by Full Council.
- 1.2** No policy changes are proposed to the Statement of Principles as part of this current review, merely some formatting and updates to matters such as titles, roles and population numbers. These are set out in paragraph 4.11 below.
- 1.3** The Statutory Guidance from the Gambling Commission (the National Regulator), to which this authority must have regard in formulating its Statement of Principles, has not been substantially updated since April 2021. The review the Council undertook of its Statement of Principles in the autumn of 2021 incorporated the updates of note to the Gambling Commission guidance of April that year, which were incorporated into the current Statement of Principles. The Council is however required, by law to review its Statement of Principles every three years, undertake a consultation as part of that review process and for Full Council to adopt a new Statement following that review. Once adopted, the Statement of Principles must be published and does not come into force before the expiration of a four week period following publication.

## 2 RECOMMENDATIONS

For the reasons set out in the report and its appendices, the **Licensing Committee** is recommended to:

- 2.1 Consider the comments received as part of the formal consultation on the draft Gambling Act 2005 Statement of Principles at Appendix 3 and officers' responses to those comments at Appendix 4.
- 2.2 Endorse the draft Statement of Principles, at Appendix 5 to this report and recommend to Full Council that the Statement of Principles be adopted by Full Council.

For the reasons set out in the report and its appendices, the **Scrutiny and Overview Committee** is invited to:

- 2.1 Note the recommendations from Licensing Committee that will be presented to Full Council;
- 2.2 Consider the report and appendices, the verbal update provided by officers following Licensing Committee and to comment on the proposals as they consider appropriate.

For the reasons set out in the report and its appendices, the **Executive Mayor and Cabinet** is recommended to:

- 2.1 Consider and respond to the comments received from Scrutiny and Overview on the 19<sup>th</sup> November relating to the draft Statement of Principles 2025-2028;
- 2.2 Endorse the recommendations from Licensing Committee that the draft Statement of Principles 2025-2028, under the Gambling Act 2005 as set out at Appendix 5, be presented to Full Council for adoption.

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 The Statement of Principles sets out the Council's approach to overseeing its licensing functions under the Gambling Act 2005. The Statement also sets out the Council's expectations of applicants and licence holders and aims to support consistency in decision making. The Council is required to have regard to its Statement of Principles in exercising any of its functions under the Act.
- 3.2 There is a statutory duty on the Council to review its current arrangements and adopt a Statement of Principles every three years (Section 349 of the Gambling Act 2005).
- 3.3 To enable the Council to continue exercising its licensing functions and comply with its duty under Section 349, it must replace its previous Statement before the end of January 2025.

### **4 BACKGROUND AND DETAILS**

- 4.1 Under Section 2 of the Act, the Council is the licensing authority and regulates premises based gambling activity in the Borough. The licensing authority is responsible for the administration of premises licenses, registrations, permits, notices and notifications within the Borough.

- 4.2** A gambling operation, in general, requires an operator's licence and a premises licence. Local authorities are, however, only responsible for licensing the *premises* on which gambling takes place. They are not responsible for licensing *operators* as this function falls to the Gambling Commission who are responsible for issuing personal gambling licences for individuals and gambling operating licences for businesses.
- 4.3** As well as issuing premises licenses, local authorities are also responsible for issuing permits in respect of:
- Gaming machines in alcohol-licensed premises, such as pubs
  - Gaming machines in members clubs
  - Gaming in members clubs
  - Unlicensed family entertainment centres (small stake and payout machines only)
  - Prize gaming
  - Occasional Use Notices
  - Temporary Use Notices
  - Provisional Statements
- 4.4** The Council works in partnership with the Gambling Commission and other agencies. The Gambling Commission has responsibility for issues of national importance and issues national guidance which all licensing authorities must have regard to in exercising their functions under the Act, including in terms of the contents of and for purposes of reviewing and adopting a Statement of Principles. The Councils' responsibilities are limited and do not extend to other gambling-related activities such as remote (online) gambling, gambling advertisements on television or other media, for example. The Gambling Commission regulates these activities.
- 4.5** The Council licensing team undertake inspections and enforce the conditions on these issued licences as well as permits and notices. It also registers small scale society lotteries.
- 4.6** In addition to processing applications and compliance/enforcement responsibilities, the Act requires each local authority to prepare and publish a Statement of Principles setting out how it will exercise its functions under the Act. The first London Borough of Croydon Statement of Principles was published on 3 January 2007. In each 3 year period thereafter, the Council must review its policy and revise it as it considers appropriate. In any event, before the conclusion of each 3 year period, the Act requires the Council to formally consult on its Statement of Principles, revise and/or amend it if necessary and re-publish it accordingly.
- 4.7** The Statement sits within a national regulatory framework which places a legal duty on licensing authorities 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 both the Council as licensing authority and the Gambling Commission as regulator, must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licenses, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether. In

exercising powers under the Act, including the “aim to permit” duty, the Council as licensing authority is required to act:

- in accordance with any relevant code of practice issued by the Gambling Commission under section 24 of the Act,
- in accordance with any Guidance issued by the Gambling Commission under section 25 of the Act,
- in a manner which is reasonably consistent with the licensing objectives, and
- in accordance with the licensing authority’s statement of licensing principles.

**4.8** The licensing objectives are:

- to prevent 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, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

**4.8** The draft Statement of Principles (Appendix 5) aligns with the national regulatory framework.

**4.9** For the Committee’s information, as a comparison, the following shows the current number of premises licenses, as opposed to that in 2007 when the first Gambling Statement of Principles was produced:

- Betting Shops – 2007 59 – 2024 - 39
- Bingo Premises – 2007 1 – 2024 - 3
- Adult Gaming Centres – 2007 8 – 2024 - 8
- Family Entertainment Centres – 2007 0 – 2024 – 0

**4.10** The Council’s Statement of Principles has undergone triennial reviews since its first adoption, most recently in 2021. The National Statutory Guidance from the Gambling Commission (the National Regulator) has not been substantially updated since April 2021 – only formatting changes have subsequently been made and a link to an advice document has been updated in Part 34 of the Guidance (regarding promoting society and local authority lotteries). The review the Council undertook of its Statement of Principles in the autumn of 2021 incorporated the updates of note to the Gambling Commission guidance of April that year.

**4.11** In light of the current review, and save as set out below, it is not proposed to make any policy amendments to the current contents of the Statement. It is, however, proposed that it be updated to:

- Reflect current population numbers in the introduction to the Statement
- Include details pertaining to the current review in the introduction section including in relation to the date of the last review, consultation dates and consultees
- Reflect new contact details and addresses
- Confirm that the Statement takes account of the Gambling Commission Guidance as at 10 September 2024
- Include reference to UK GDPR rather than simply to GDPR

- Updating a link to the Gambling Commission website relating to Codes of Practice within the section relating to Gaming Machines in Gambling Premises
- To place the extracts from the Licence Conditions and Codes of Practice document (“LCCP”) produced by the Gambling Commission in italics (at pages 9/10 of the Statement) to more easily delineate it;
- To update the effective date of the LCCP within the Statement
- To place all the extracts from the Gambling Commission guidance included within the Statement in italics throughout the document
- To include the wording “and recommends the use of” at page 14 in relation to the Social Responsibility Charter for Gaming Machines in Pubs, produced by the British Beer & Pub Association (BBPA) and UK Hospitality to address one of the comments received as part of the Consultation.

**4.12** For the sixth statutory review, and following approval by Full Council, the Council must publish its revised Statement and this publication must take place 4 weeks before the Statement is permitted to come into force.

**4.13** Attached at Appendix 5, is a copy of the draft Statement of Principles 2025-2028 that, having due regard to the responses received during the consultation (Appendix 4):

4.13.1 The Licensing Committee is recommended to consider and recommend to Full Council for adoption.

4.13.2 Scrutiny and Overview Committee is invited to comment on the proposals as they consider appropriate in light of the recommendations from Licensing Committee. Scrutiny and Overview Committee are also asked to note that due to the time frame within which the Statement of Principles needs to be considered and adopted by Full Council and in light of there being no policy changes recommended by the review, the Executive Mayor considers that an exception ought to be made under paragraph 2(b) of Part 4C of the Constitution (Budget and Policy Framework Procedure Rules) to the normal time frame within which Scrutiny and Overview Committee would ordinarily have to consider a policy within the Budget and Policy Framework.

4.13.3 Cabinet is asked to consider and respond to the comments received from Scrutiny and Overview on the 19<sup>th</sup> November relating to the draft Statement of Principles 2025-2028 and to endorse the Licensing Committee recommendations that the draft Statement of Principles for Gambling for 2025-2028 be presented to the full Council for adoption.

## **5 ALTERNATIVE OPTIONS CONSIDERED**

**5.1** When the Council exercises its licensing functions under the Gambling Act 2005, it must have regard to its Statement of Principles. If the Council fails to adopt a new Statement of Principles, it will mean that the Council has failed to meet its statutory obligation under section 349 of the Gambling Act 2005, to prepare and publish a Statement at least every three years. This will place decisions which need to be taken under the Act at risk as well as pose reputational harm to the authority. Therefore, whilst “do nothing” is a potential alternative, it is not recommended.

## 6. CONSULTATION

- 6.1** On 3 October 2024, as part of the formal consultation on the proposed revisions, the draft Statement of Principles was circulated to a number of parties, including statutory consultees such as individuals and bodies in the gambling industry, together with a covering letter which outlined the changes proposed to the current Statement. A copy of that covering letter is attached at Appendix 1.
- 6.2** The consultation period ended on 1 November 2024. A list of the individuals and bodies consulted in accordance with the statutory requirements is attached at Appendix 2.
- 6.3** One written response was received during the consultation period. A copy is attached at Appendix 3.
- 6.4** A schedule of the specific officer comments made in relation to that response is attached at Appendix 4. This also shows where officers recommend that the Statement is, or is not, changed as a result of those comments.
- 6.5** Attached at Appendix 5, and having due regard to the responses received during the consultation, is a copy of the draft, revised Statement of Principles that the Licensing Committee is recommended to consider and recommend to Full Council for adoption /Scrutiny and Overview Committee is invited to comment on the proposals as they consider appropriate/Cabinet is asked to endorse the Licensing Committee recommendations that the draft Statement of Principles for Gambling for 2025-2028 be presented to the full Council for adoption.
- 6.6** Attached at Appendix 6 is a Glossary of Terms for the Gambling Act 2005.
- 6.7** The proposed timetable for consideration of the Statement of Principles is set out below:

DATE	ACTION
01.11.24	Deadline for consultation responses.
18.11.24	Licensing Committee
19.11.24	Scrutiny and Overview Committee
20.11.24	Cabinet
11.12.24	Full Council
31.12.24	Publication (by)

## 7. CONTRIBUTION TO EXECUTIVE MAYOR'S BUSINESS PLAN

- 7.1** The recommendations within this report support Outcome 2: A place of opportunity, of the Mayor's Business Plan 2022-2026.

**7.2** The Statement of Principles sets out the Council’s approach to overseeing its licensing functions under the Gambling Act 2005. The Statement also sets out the Council’s expectations of applicants and licence holders to ensure that the balance is struck between the Council’s statutory duties and the needs of business and residents. It aims to support consistency in decision making. The Council is required to have regard to its Statement of Principles in exercising any of its functions under the Act.

## **8. IMPLICATIONS**

### **8.1 FINANCIAL IMPLICATIONS**

#### **8.1.1 Revenue and Capital consequences of report recommendation**

There are no direct financial implications associated with this report. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

#### **8.1.2 The Effect of the Decision**

There are no direct financial implications associated with this report.

#### **8.1.3 Risks**

There are no direct risks associated with the recommendations in this report.

#### **8.1.4 Options**

There are no other options available to the Council.

#### **8.1.5 Savings/Future Efficiencies**

None identified.

Comments approved by Zaber Ahmed, Head of Finance on behalf of the Director of Finance (Date 08/11/2024).

### **8.2 LEGAL IMPLICATIONS**

**8.2.1** Section 349 of the Gambling Act 2005 (“the Act”) requires the Council as Licensing Authority to review and then publish its Statement of Principles at least every three years. In determining what revisions may be appropriate, it must consider any comments made during the formal consultation period in the context of the Act, and any guidance or regulations made under it.

**8.2.2** Section 349(3) of the Gambling Act 2005 requires the licensing authority to consult the following on the policy statement or any subsequent revision to it:

- 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.



- 8.2.3** Section 25 of the Gambling Act 2005 requires the Authority to have regard to the Gambling Commission's Guidance to Local Authorities when preparing its Statement. The Gambling Commission, as national regulator, has published extensive statutory guidance covering all elements of the regulatory function pertaining to local authorities and Gambling functions. The Council as Licensing Authority must have regard to the statutory guidance issued by the Gambling Commission in undertaking its functions under the Act. This guidance is available on the Gambling Commission website: <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>. This is supported by Codes of Practice, toolkits, forms and reporting duties.
- 8.2.4** Final approval of the Statement is a function reserved to the Full Council under Section 154 the Gambling Act 2005 and set out at Part 2 Article 4, paragraphs 4.1 and 4.2 of the Council's Constitution.

Comments approved by Kiri Bailey, Head of Commercial, Housing and Litigation & Deputy Monitoring Officer on behalf of the Director of Legal Services and Monitoring Officer. (Date 07/11/2024)

### **8.3 EQUALITIES IMPLICATIONS**

- 8.3.1** The Council has a statutory duty to comply with the Equality Act 2010. In summary, under the Public Sector Equality Duty, the Council must, in exercising its functions, 'have due regard to' the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
- 8.3.2** There are no policy changes proposed to the current Statement of Principles and the Consultation outcome has not indicated any areas for concern in relation to equalities as regards the contents of the existing or proposed Statement of Principles. The Statement of Principles content is also circumscribed by National statutory guidance from the Gambling Commission as national regulator. Therefore, a full equalities impact assessment has not been undertaken. When considering individual applications made under the Gambling Act 2005, if concerns are raised which impact on the Public Sector Equality duty or raise equalities implications, these will be considered and addressed as part of the decision making process.

Comments approved by Ken Orlukwu, Senior Equalities Officer, on behalf of Helen Reeves, Head of Strategy & Policy on 07/11/2024.

### **8.4 OTHER IMPLICATIONS**

#### **8.4.1 CRIME AND DISORDER IMPLICATIONS**

- 8.4.1.1** Section 17 of the Crime and Disorder Act 1988 requires that, without prejudice to any other obligation imposed on it, the Council must exercise its various functions with due regard to the likely effect of doing so and the need to do all it reasonably can to prevent crime and disorder in the area. The Statement of Principles aims to uphold the three licensing objectives. The first licensing objective is 'to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime'.

**8.4.1.2** The Statement aims to achieve this by ensuring gambling operators have sufficient measures in place to prevent the licensed gambling premises from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

#### **8.4.2 DATA PROTECTION IMPLICATIONS**

- **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

- **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**NO**

The Director of Streets & Environment comments that agreeing the recommendations in this report will not result in the processing of personal data.

Approved by: Karen Agbabiaka, Director of Streets & Environment

## **9 APPENDICES**

**9.1 Appendix 1:** Consultation Covering Letter 3 October 2024

**Appendix 2:** List of Consultees

**Appendix 3:** Response received from consultation

**Appendix 4:** Officers comments on response received during consultation

**Appendix 5:** Revised Statement of Principles for consideration

**Appendix 6:** Glossary of Terms

## **BACKGROUND DOCUMENTS**

**None**

## **10 URGENCY**

**10.2 N/A**