

**May 2015**

***This guidance note is taken from the draft LGA councillor handbook on gambling regulation. The full handbook will be available shortly; this section is being published now to assist licensing officers as they revise their existing statements.***

## The licensing authority statement of principles

Under section 349 of the Act, licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities in gambling. Statements of principles typically run for a period of three years, although there is nothing to prevent an authority from updating its statement more frequently if it wishes to.

In previous years, the LGA / LACORS produced a template statement of principles for licensing authorities to adopt. However, following changes to the licensing conditions and codes of practice, reflected in the updated guidance to licensing authorities published in March 2015, we have produced the guidance below to assist licensing authorities in reviewing and considering their statements.

### **Objective and purpose**

The objective of the statement of principles is to provide a vision for the local area and a statement of intent that guides practice: licensing authorities must have regard to their statement when carrying out their licensing functions. The statement cannot create new requirements for applicants outside of the Act, and cannot override the right of any person to make an application under the Act, make representations or seek a review of a licence. However, it can invite people and operators in particular to consider local issues and set out how they can contribute towards positively addressing them.

The updated licence conditions and codes of practice have significant implications for the statement of principles. The **requirement for operators to prepare local risk assessments in relation to all their premises from April 2016 means that licensing authorities will need to set out their expectations of operators' risk assessments, ideally in their statements**. This provides a real opportunity for councils to reflect local needs and issues in their gambling policies, in a similar way to licensing policy statements prepared under the Licensing Act 2003.

Most licensing authorities will not experience the same volume of applications in gambling as they do in other areas of licensing, but the issues of betting shop clustering and concern over FOBTs have shown that gambling generates extremely strong feeling. While licensing authorities may not have the power to refuse new applications or limit FOBT machines, developing detailed and robust statements of principles that reflect local circumstances will enable them to shape local gambling regulation as much as possible. A statement that reflects local circumstances and risks can help operators to better understand and proactively mitigate the risks to the licensing objectives.

Conversely, as in other areas of licensing, if an authority's statement of principles does not cover a specific issue, it will be in a significantly weaker position if it is ever challenged on a decision on that issue. It is always better to pre-empt legal challenge through a comprehensive statement of principles, and setting out a position in the

statement should encourage an applicant to work with the council and community from the start to develop an application that will add to the local area, rather than detract from it.

The significant changes to the LCCP in 2015 offer scope for authorities to develop statements of principles that are more closely tailored to their local circumstances. The Gambling Commission recognise that in some places, developing more localised statements of principles will be an iterative process that takes place over time, as different information and more tools (for example, from the Westminster / Manchester research into local gambling related harm which is due to conclude in September 2015) become available. Licensing authorities that have made relatively minor changes to their existing statements in 2015 may consider more comprehensive updates ahead of the statutory deadline for the next update of the statement (in most cases, 2019).

### Process

In developing their statements, the Act requires licensing authorities to consult with:

- local police
- those representing the interests of gambling businesses in their localities,
- people likely to be affected by it (or those who represent them).

Authorities may also wish to consult with:

- organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, such as public and mental health teams, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
- local businesses
- other tiers of local government (where they exist)
- responsible authorities.

Cabinet office guidance on public consultations<sup>1</sup> state that the time required for a public consultation *'will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might typically vary between two and 12 weeks.'*

Licensing authorities should look at the views submitted by consultees and consider carefully whether they should be taken into account in finalising their statements. A licensing authority should always be able to give reasons for the decisions it has made following consultation. However, they should ensure that they only consider matters within the scope of the Guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, an authority may be unable to deal with the issue under the Gambling Act, although there may be other options for addressing issues raised (eg planning).

Given the requirement to undertake a consultation when the statement of principles is amended, authorities may wish to consider separating their statements into distinct

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<sup>1</sup> Cabinet Office 2013:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255180/Consultation-Principles-Oct-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255180/Consultation-Principles-Oct-2013.pdf)

segments (possibly by sector). This would ensure that they need only consult on the section they propose to amend, rather than on the full statement, if changes need to be made.

Licensing authorities are required to publish their statements four weeks prior to them coming into effect, ie on or by 3 January 2016 if the statement takes effect on 31 January 2016. Licensing authorities are required to publish a notice advertising the publication of the statement on or before it comes into effect.

## Key issues for the statement of principles

### Legal requirements

Licensing authorities are required to include within their statements a number of points set out in statutory regulations:

- setting out the three licensing objectives that the statement is intended to uphold
- a commitment to upholding the statutory aim to permit gambling
- a description of the geographical area to which the statement applies (typically a plan of the area)
- a list of those consulted in preparing the statement
- the principles the licensing authority will apply in designating a competent body to advise it about the protection of children from harm and, if already determined, who this body is. In most places, this will be the Local Safeguarding Children Board.
- the principles the licensing authority will apply in determining whether someone is an interested party for the purposes of premises licences or applications for them
- the principles to be applied in relation to exchanging information with the Gambling Commission or other bodies with whom licensing authorities are authorised to share information under the Act
- the principles to be applied in exercising inspection functions and instigating criminal proceedings (see 'enforcement approach' below).

If the licensing authority has agreed a 'no casino' resolution, this should be included within the statement, alongside details of how (ie by full council) and when the decision was reached.

### Local area profiles

The updated guidance for licensing authorities recommends that, like operators, licensing authorities complete and map their own assessment of local risks and concerns by developing local area profiles to help shape their statements (although there is no requirement to do this). In simple terms, the objective of the profiles is to set out what your area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.

Licensing authorities may wish to include local area profiles within their statements. Alternatively, they could reference the implications of local area profiles for their regulatory approach in the statement, but maintain the actual profiles separately. **This would enable the profiles to be updated without the need to re-consult on amending the full statement of principles.**



Some councils have expressed concern about whether they have access to information about local risks, or whether there are any local gambling risks to be addressed at all. It may therefore be helpful to start from simple principles, and expect that for many authorities these profiles will develop over a period of time.

As stated, the aim of local area profiles is to build up a picture of the locality, and in particular the elements of it that could be impacted by gambling premises. This profile might therefore include reference to:

- schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (eg, seaside resorts may typically have more arcades or FECs).

**Crucially, local councillors know and understand their areas as well as anyone, and are well-placed to contribute to the development of local area profiles.** The Gambling Commission also recommend engaging with responsible authorities and other organisations that can help build up a profile of both actual and potential local risks in developing local area profiles. This includes organisations involved in public health, mental health, housing, education, welfare groups and community safety partnerships, and organisations such as Gamcare or equivalent local support organisations.

One issue to consider is whether there is a need to differentiate different parts of the licensing authority area in drawing up local area profiles, depending on the size and nature of the area.

A smaller authority may take the view that there are no reasons to distinguish one part of the borough from any other. In contrast, larger areas may wish to differentiate the area into segments or zones with different characteristics and risks, enabling them to outline different expectations for applications or operators based in each. For example, a larger licensing authority that has a specific geographic area with a higher density or specific type of gambling premises may wish to differentiate this from the rest of the borough. Similarly, smaller authorities may also find this approach suitable, for example if there is a busier town centre and surrounding rural area with a very different profile.

In March 2015, Westminster and Manchester councils launched a piece of research aimed at better understanding the issue of gambling related harm and local area vulnerability to it. The research is considering different risk factors related to

gambling, with the intention of developing a tool that helps the councils map these to the local area and shape their statements of policy. The research is expected to conclude in September 2015, and the LGA (which has part funded the research) will help disseminate the findings and tools from the research to other licensing authorities, who may subsequently want to use these to develop their local area profiles.

### **Expectations of operators**

Local area profiles will help the authority to develop its expectations of existing operators and new applicants in the licensing authority area. The statement of principles is the key tool for setting this out clearly, so that operators are clear what is expected of them.

### ***Risk assessments***

As an example, the statement of principles is an **opportunity for a licensing authority to set out its expectations of the local risk assessments that operators must now undertake** in respect of all gambling premises.

Operators are required to take into account the licensing authority's statement of principles in developing their risk assessments, so authorities should therefore specifically outline the issues they expects operators to cover within their risk assessments. Operators are not automatically required to share their risk assessments with licensing authorities except when they are applying for a new premises licence or to vary an existing one. However, the Gambling Commission is advising them operators to do so. Authorities may use the statement of principles to clarify whether or not and how regularly they expect to receive a copy of each premises' risk assessment.

Authorities will wish to ensure that the risk assessment covers the following broad headings:

- reference to any specific local risks (linked to the local area profile)
- how the operator proposes to mitigate these risks
- how the operator will monitor specific risks

The statement should also set out if the licensing authority has any specific expectations of risk assessments for different types of premises. This will be linked to broader expectations of operators (linked to activity and location), as set out below.

### ***Applications and variations***

The statement should also set out the licensing authority's expectations of new applications and the issues the authority will take into account in considering applications for new licences, permits or variations in different sectors or parts of the borough, depending on the risks associated with each.

This should include the information that the authority would expected to see as part of any such application, for example minimum standards for a plan and layout of the premises. It could also include a list of required information about staffing arrangements in the premises, or the security features that will be put in place.



Depending on the local area profile, authorities may wish to invite information at application stage about premises' intended participation in local business schemes (eg, if there is a BID) or other specific schemes such as Betwatch, if this in place.

Similarly, authorities could invite applicants to outline specifically how individual premises will be implementing the various voluntary codes of practice that different sectors have developed, as well as the measures mandated in the licensing conditions and codes of practice.

**The key point is that the statement is an opportunity to clarify your expectations of businesses in relation to new applications, reducing the input and resources required at the time an application is submitted.**

#### ***Sector / area specific expectations***

The statement should be used to set out the licensing authority's expectations of operators of different types of premises, or (if relevant) of premises in different parts of the licensing authority area. If there are particular risks associated with certain premises due to the facilities offered or their location, it is legitimate for the statement to set out upfront how it expects operators and premises to address this.

#### **Local licensing guidance - South Leeds alcohol premises**

South Leeds is an area of deprivation, with increasing numbers of outlets to buy alcohol, but a decline in the number of pubs. NHS Leeds (as was) and the local community officers had increasing concerns about the availability of alcohol in the area, along with an increase in street drinking, and generalized disorder. The publication of the Joint Strategic Needs Assessment highlighted a disparity in the life expectancy of residents in the area in comparison with other areas in Leeds and the national average. Alcohol misuse is known to be a possible contributory factor for a lowered life expectancy.

The council's South Leeds area team formed the multi-agency South Leeds Alcohol Group with the objective of reducing the health harms in the area which were linked with alcohol. The group consisted of the police, health, community safety, treatment services, planning, environmental health and licensing. The group met monthly to look at a number of approaches. The availability of alcohol was seen as key, but there were not enough on-licensed premises to warrant a cumulative impact policy. The group looked at alternative options and looked towards licensing as a solution.

In 2012, changes to statutory guidance on the Licensing Act enabled councils to require operators to have regard for the local area when making their application. The group therefore developed Local Licensing Guidance specifically for postcode areas of LS10 and LS11 (also known as Inner South Leeds), which has a population of approx. 82,000. The guidance has helped premises ensure that they are able to identify and include appropriate control measures in their applications. Of the 5 applications received since the development of the guidance that didn't include appropriate control measures, the Health and the Licensing Authority have negotiated with 4 premises who subsequently agreed to include additional control measures and a further application was withdrawn prior to hearing. The control measures included matters such as the positioning of alcohol within the store and agreement to display health information.

Similar approaches in gambling could include:

- Under-age sales

- If a premises is based near a school or college, the measures might be required to manage a higher risk of attempted under-age sales.
- If the premises is a FEC or UFEC, expectations for how the premises will manage the risk of children and young people understanding different types of machine and / or seeking to access
- Security issues
  - Staffing requirements, if the premises is open late, or located in an area with a busy night time economy or record of crime / anti-social behaviour.
  - Whether alcohol is permitted, eg in a premises on a seaside pier.
  - Requirement for CCTV, magilocks, door chimes, alarms etc if there is a history of security incidents in the premises.
- Signage
  - For example, language requirements if there is a diverse local community where English may not be the first language.
  - Clear identification of different types of machine (eg gaming or skill machines) and / or prizes in premises where these may vary.
- Staff issues
  - Training requirements on particular issues relevant to the premises or area, eg on different types of machine in a FEC / UFEC.

Another option is operator / premises participation in local schemes or industry best practice schemes (eg Safebet Alliance) designed to promote best practice and tackle any issues. In the alcohol licensed trade, schemes such as PubWatch, Best Bar None etc are common practice. This is far less common in relation to gambling, but may also have a role to play in some areas. Authorities could consider this as a default approach in specific areas, or as a first stage enforcement approach in areas where there are particular issues.

In relation to both existing operators and new applicants, the authority may wish to use the statement to outline a set of model licence conditions that operators could adopt if the local area profiles and risk assessments indicate it is necessary. The Gambling Commission's guidance to licensing authorities includes a helpful set of sample premises licence conditions arranged by security; anti-social behaviour; underage controls; player protection controls. These are listed at Annex 2.

### **Enforcement approach**

Licensing authorities are required to set out in their statement the 'principles that they will apply in exercising their inspection function and instigating criminal proceedings' (that is, their approach to enforcement). As a minimum, the statement should outline the authority's intended approach in relation to:

- information sharing and targeting activity
- inspection activity and visits
- dealing with non-compliance by premises
- tackling illegal gambling.

It should be noted that in setting out its approach to inspection and enforcement, the authority will also be providing an outline of the basis for its fee structure.



As in other areas of regulatory services, in developing their enforcement strategy, **authorities should adopt a 'better regulation' approach** that recognises the

requirements of the statutory regulator's code<sup>2</sup> and applies the principles of proportionality and transparency, particularly in terms of consultation and engagement with regulated businesses.

The Gambling Commission is keen for licensing authorities to foster a partnership approach to local regulation through working jointly with local businesses to tackle issues linked to gambling premises. The LGA – Association of British Bookmakers Framework for local partnership working on betting shops<sup>3</sup> outlines this type of approach to partnership working between councils and the industry.

#### **LGA-ABB framework for partnership working**

The framework recognises that, despite the different opinions held by councils and the industry about the statutory aim to permit, there is a mutual interest in ensuring that local problems linked to betting shops are addressed. It also recognised that a partnership approach is likely to be more effective in resolving issues. This could include ward councillors; council licensing teams and community safety teams; police licensing and community officers; betting shop managers and betting shop area managers, as well as town centre managers, representatives of the wider business community and other stakeholders listed above.

There are different approaches that local areas can take for partnership working:

**Ealing council** set up a Betwatch scheme following concerns raised by local residents and councillors about the proliferation of 13 betting shops in Southall town centre and associated crime and disorder and antisocial behaviour. In a single year, there were 89 allegations of crime where a gambling premises was named as the location of the incident in Southall. The Betwatch group drew up action plans for tackling the issues, as well as test purchase failures in 3 of the premises, and a 'Ban by one, ban by all' approach was introduced. Following the creation of the Betwatch scheme, crime within gambling premises decreased by more than 50 per cent on 2011 levels, alongside a significant reduction in public order offences and criminal damage incidents. Additionally, further underage test purchases took place in 2012 with no failures reported.

When concerns were raised about anti-social behaviour and crime associated with bookmakers on Deptford High St, **Lewisham Council** involved bookmakers in the development of two general business initiatives – the Deptford High Street Charter and Lewisham Borough Businesses Against Crime initiative. Alongside this, individual bookmakers made changes in order to address the problems of anti-social behaviour in and around their premises, including installing external CCTV and signs highlighting that the area is under surveillance; making amendments to remove places where street drinkers would often congregate; setting up new CCTV systems within stores which are regularly monitored; introducing banning orders against some problem individuals; and changing management and staff. This work resulted in a reduction of incidents in and around the bookmakers. Following the work, a local Betwatch scheme has been established.

**Medway council** worked with the Association of British Bookmakers and major operators to

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

<sup>3</sup> [http://www.local.gov.uk/documents/10180/6869714/L14-708++LGA-ABB+framework+for+local+partnership+working\\_08.pdf/29a0d2de-9cb5-4209-8544-d4c651c84470](http://www.local.gov.uk/documents/10180/6869714/L14-708++LGA-ABB+framework+for+local+partnership+working_08.pdf/29a0d2de-9cb5-4209-8544-d4c651c84470)



agree a voluntary agreement relating to the promotion of responsible gambling in Medway. Launched in December 2015, the agreement committed all parties to establishing a cross-operator self-exclusion pilot scheme within the Medway area; to developing a reporting of crime protocol in collaboration with the Medway Community Safety Partnership and Kent Police; and to adopting the industry voluntary code on safety and security – the 'Safe Bet Alliance'.

A number of councils have now signed **primary authority agreements with some of the largest gambling operators covering the issue of age verification**.<sup>4</sup> As with any other area, licensing authorities should therefore have regard to the plan agreed between the company and primary authority in developing their own programmes of activity and inspection. However, the primary authority relationship provides a useful mechanism to feedback general concerns about a particular operator, as the primary authority will have regular contact at senior levels with the operator: authorities should seek to reflect this in their enforcement approach.

### ***Information sharing***

To help target their enforcement activity and resources, authorities could use their statements to request that operators / premises share relevant information with them, for example about test purchasing results (subject to the terms of primary authority agreements) or about incidents in premises, which managers are likely to be required to report to head office. A licensing authority might seek information about numbers of self-excluded gamblers to help it develop its understanding about the risk of problem gambling in its area.

This type of information would help the authority to get a clearer picture of which premises may be experiencing issues, meaning that they can structure their inspection and enforcement activity appropriately.

### ***Inspection activity and visits***

The statement should set out the activity the authority intends to undertake as part of its standard (that is, pre-planned) inspection activity, and the issues it will be looking at when it does visit. This will ensure that operators know what to expect in terms of the frequency and nature of licensing authority visits.

The Gambling Commission, working with the Leicester, Rutland and Leicestershire Licensing Forum and Leicestershire Local Economic Partnership, has developed a range of templates to help authorities when they visit gambling premises: <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Licensing-authorities-inspection.aspx> Compliance is made easier by making the regulations easier to understand and explain, and the Commission is encouraging authorities to make use of the templates.

The issues that licensing authorities may cover during their visits may include:

- details of training policies and training undertaken by staff
- records of refusals to serve / admit on age grounds
- records of any relevant incidents in or outside the premises, eg anti-social behaviour

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<sup>4</sup> The primary authority register is available to search at:  
<https://primaryauthorityregister.info/par/index.php/publicregister>

- approach to managing self-exclusion and numbers of people currently self-excluded
- involvement / impact of any work in local schemes or partnership working with other local businesses
  
- reviewing paperwork relating to the purchase of games from licensed manufacturers
- interviews with staff members
- confirming that appropriate signage is in place.

***Dealing with non-compliance / risks to the licensing objectives***

The statement should outline the steps the authority will take where there are reports of non-compliance, or there have been serious incidents linked to a premises. Authorities should make clear when and how they would expect to work with operators to try to resolve or address problems, and when an issue is so serious that it would expect to move immediately to initiate some form of enforcement action.

Authorities may wish to specifically cover:

- Dealing with test purchase failures. For example, the authority might require a premises to undertake certain measures to address this and undergo a follow-up test within a specified amount of time. A second failure would be expected to lead to enforcement action.
- Dealing with complaints from residents or neighbours. For example, an authority might have an established process to implement when it receives complaints about specific premises.
- Dealing with anti-social behaviour issues. For example, if an authority becomes aware that a premises is becoming associated with anti-social behaviour issues, it might in the first instance seek to work with the premises to address these through voluntary measures. If this is not successful in resolving the issues, the authority might then consider introducing conditions on the premises licence, or using other tools as appropriate.

The section on enforcement should the tools that licensing authorities will consider using to address issues that may be associated with gambling premises, often linked to alcohol and/or anti-social behaviour. Licensing authorities have the option under the Act to review, vary or impose conditions on a premises licence, but in practice these might not be the most effective tools to use to tackle problems linked to anti-social behaviour. Instead, tools specifically designed to reduce anti-social behaviour<sup>5</sup>, such as dispersal powers, community protection notices or new public space protection orders, may have more of an impact. In very, very rare instances, where a premises is being used or likely to be used to commit nuisance or disorder and working with the operator had failed to address this, a closure notice may also be served.

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<sup>5</sup> See Home Office guidance on ASB powers:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2.pdf)



***Tackling illegal gambling***

The enforcement approach could also set out the authority's approach to illegal gambling, including how the authority intends to monitor the risk of illegal gambling or respond to any information linked to this risk.

