

Borough of Poole Gambling Act 2005 Statement of
Gambling Policy



BOROUGH OF POOLE

STATEMENT OF GAMBLING
POLICY

2016 - 2019

Borough of Poole Gambling Act 2005 Statement of Gambling Policy

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2 **Part A – General Principle**

3 **1.Licensing Objectives**

4 **1.1 When dealing with licensing matters the Borough of Poole is the Licensing Authority (“The Licensing Authority”) under the Gambling Act 2005 (“the Act”) and will promote the three licensing objectives set out in the Act. These licensing objectives are:**

- 5 • **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- 6 • **Ensuring that gambling is conducted in a fair and open way and**
- 7 • **Protecting children and other vulnerable persons from being harmed or exploited by gambling (“the Licensing Objectives”).**

8 **1.2 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim**

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**to permit the use of premises for gambling in so far
as it thinks it is:**

- 9 • In accordance with any relevant code of practice issued by the Gambling Commission**
- 10 • In accordance with any relevant guidance issued by the Gambling Commission**
- 11 • Reasonably consistent with the licensing objectives and**
- 12 • In accordance with the authority's statement of licensing policy**
- 13 1.3 For the purposes of interpreting these objectives:**
 - 14 • the term “disorder” is interpreted as meaning an activity that is more serious and disruptive than mere nuisance**
 - 15 • reference to “vulnerable persons” includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol and/or drugs and**
 - 16 • the phrase “harmed or exploited by gambling” can mean children and vulnerable people taking part in or being in close proximity to gambling, or**

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advertising gambling in such a way that it makes
gambling particularly attractive to such individuals.**

17 2. Licensing Statement

18 2.1 Duration of Statement

19 2.1.1 This statement of principles is the Licensing Authority's published policy for the purposes of the Act. It was approved by the Licensing Authority and will run for the period of three years starting from the XX XX 201X.

20 2.1.2 This policy will be applied in the exercise of the Licensing Authority's functions under the Act during that period.

21 2.1.3 The policy may be reviewed from time to time, and in the light of any such review, it may be revised. The Licensing Authority will publish any amended parts for re-consultation before approval.

22 2.1.4 Should you have any comments as regards this policy statement please send them via e-mail or letter with your contact details to:

23 Name: The Head of Environmental Services

**24 Address: Unit 1, New Fields Business Park,
Stinsford Road, Poole, BH17 0NF.**

25 E-mail: environment@poole.gov.uk

26 2.1.5 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as

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each will be considered on its own merits and
according to the statutory requirements of the Act.

27 2.2 Content of Statement

28 2.2.1 A summary of information contained within this statement is attached as an index at the front of this document.

29 2.2.2 The licensable activities covered by this statement are:

30 Premises Licenses

31 • Adult gaming centres

32 • Bingo premises

33 • Betting premises

34 • Tracks

35 • Licensed family entertainment centres

36 • Casinos

37 • Travelling fairs

38 • Provisional statement

39 Permits

40 • Club gaming

41 • Club gaming machines

42 • Gaming machines on alcohol licensed premises

43 • Prize gaming

44 • Unlicensed family entertainment centres

45 Notices

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46 • Temporary Use and Occasional Use.

47 2.2.3 The contents of this document are not a full or authoritative statement of the law or statutory guidance and do not constitute professional or legal advice.

48 2.2.4 This statement is published on the Licensing Authority's web-site and is available at the offices of the Licensing Authority, during normal working hours. The address of the Licensing Authority's web-site is

49 www.poole.gov.uk

50 2.3 Geographical Application of Statement

51 2.3.1 The Borough of Poole is a unitary authority situated on Poole Bay, just off the eastern end of the East Devon and Dorset World Heritage Site, with one of the largest harbours in Europe and fine blue flag beaches. It borders Bournemouth to the east, East Dorset District Council to the north and Purbeck District Council to the west.

52 2.3.2 Poole has a population of 147,600 (2011 census) making it the second largest settlement in Dorset. It is predominantly urban in character covering an area of 29 square miles with a buoyant and diverse economy. Further information and statistics relating to Poole can be found via the following link:

53 <http://www.poole.gov.uk/your-council/how-the-council-works/research/>

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54 2.3.3 A map showing the extent of the Borough is produced at Appendix A

55 2.4 Consultation Process

56 2.4.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcement agencies, all of which have views and concerns that require consideration as part of the licensing function.

57 2.4.2 The Licensing Authority consulted widely upon this policy statement before finalising and publishing it. It has consulted with and taken into account comments received from relevant organisations and others not listed but who have made individual requests to be consulted.

58 2.4.3 Our consultation took place between xx/xx/xxxx and xx/xx/xxxx and followed the

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Government Consultation Principles Guidance
(published 17th July 2012), which is available at:

59 <https://www.gov.uk/government/publications/consultation-principles-guidance>

60 **2.4.4 A full list of comments received relating to the policy will be made available on the council's website:**

61 www.poole.gov.uk

62 or by request from:

63 **Name: The Head of Environmental Services**

64 **Address: Unit 1, New Fields Business Park,
Stinsford Road, Poole, BH17 0NF.**

65 **E-mail: environment@poole.gov.uk**

66 **2.5 Declaration**

67 **2.5.1 In producing this statement of principles, the Licensing Authority has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and**

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responses received from those consulted on the
policy statement.

68 2.6 Fundamental principles

69 2.6.1 In carrying out its functions the Licensing Authority will regulate gambling in the public interest.

70 2.6.2 Any application received will be considered on its own merits and in accordance with the requirements of the Act.

71 2.6.3 The Licensing Authority will seek to avoid any duplication with other regulatory regimes so far as possible.

72 2.6.4 The Licensing Authority recognises that there is a clear separation between the licensing legislation and planning legislation and that licensing applications will be viewed independently of planning applications.

73 2.6.5 The Licensing Authority will in particular when considering its functions in relation to applications and enforcement have regard to the Human Rights Act 1998.

74 2.6.6 The Equality Act 2010 obliges the Licensing Authority to do all it can to eliminate unlawful discrimination, and to promote equality of opportunity. Due regard has been given to this legislation whilst undertaking this policy and its licensing function.

75 2.7 The Licensing Process

76 2.7.1 The Licensing Authorities Licensing Functions under the Act will be carried out by the Licensing Committee, supported by a number of

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Sub-Committees and by officers acting under the delegated authority of the committee.

77 2.7.2 Where there is no area of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness officers will for the most part carry out these functions.

78 2.7.3 Where there is relevant representation in respect of an application the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence. The sub-committee will consist of 3 members of the Licensing Committee.

79 2.7.4 In dealing with each case the decision made by the Licensing Authority will be transparent and consistent.

80 2.7.5 This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its own merits. Equally, this Statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

81 2.7.6 A full list of the delegated functions can be seen in Appendix B.

82 3. Responsible Authorities

83 3.1 Responsible Authorities – General

84 3.1.1 The Act specifies various bodies as Responsible Authorities (“Responsible Authorities”). These are public bodies that must be

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notified of all applications and who are entitled to make representations to the Licensing Authority, if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

-

- 85 • The Gambling Commission**
- 86 • The Chief Officer of Dorset Police**
- 87 • Dorset & Wiltshire Fire & Rescue**
- 88 • The Local Planning Authority**
- 89 • An authority which has functions in relation to pollution to the environment and human health**
- 90 • HM Revenue and Customs**
- 91 • Maritime and Coastguard Agency**
- 92 • Anyone authorised in writing by the Licensing Authority as competent to advise about the protection of children from harm and**
- 93 • The Licensing Authority in whose area the premises is situated**
- 94 3.1.2 The contact details of the Responsible Authorities for the area of the Licensing Authority can be found on the Council's website at www.poole.gov.uk**
- 95 3.1.3 The Responsible Authorities must be notified of applications in relation to Premises Licenses and are entitled to make representations in relation to them.**
- 96 3.1.4 Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to**

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the application itself and the Licensing Objectives. In this regard the Licensing Authority will not generally take into account representations, which were deemed to be irrelevant e.g.

97 • The number of gambling premises in the locality

98 • The fire risks within the premises

99 • The traffic congestion resulting from the premises location.

100 3.1.5 Each representation will, however, be considered on its own individual merits

101 3.2 Responsible Authority - Protection of Children from Harm

102 3.2.1 In exercising the Licensing Authority's powers under Section 157(h) of the Act to designate, in writing, a body competent to advise the Licensing Authority about protection of children from harm the following principles are applied:

103 • the need for the body to be responsible for an area covering the whole of the Licensing Authority's area

104 • the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group and

105 • whether the body has experience in relation to protection of children issues.

106 3.2.2 The Licensing Authority designates the Borough of Poole Children and Young Peoples

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**Services for the purpose of providing advice about
protection of children from harm.**

107 3.2.3The Licensing Authority designates the Borough of Poole Regulatory Services for the purpose of providing advice in relation to pollution, the environment and human health.

108 3.2.4The contact details for the Children and Young Peoples Services and Regulatory Services can be found on the Borough of Poole website:

109 www.poole.gov.uk

110 4. Interested Parties

111 4.1 Interested Parties – General

112 4.1.1The Act identifies various categories of person who may be Interested Parties in relation to an application for or in respect of a Premises

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**Licence, namely a person who in the opinion of the
Licensing Authority:**

- 113 • lives sufficiently close to the premises and likely to be affected by the authorised activities**
 - 114 • has business interests that might be affected by the authorised activities or**
 - 115 • represents persons who satisfy either of the two sub-paragraphs above.**
- 116 4.1.2 Interested parties can make representations about licence applications or apply for a review of an existing licence.**
- 117 4.2 Interested Parties – Principles relating to determination**
- 118 4.2.1 The Licensing Authority will apply various principles to determine whether a person is an Interested Party and will generally require written evidence that a person or body represents someone who complies with 4.1.1 above.**
- 119 4.2.2 The Licensing Authority will consider each situation on its own merits.**
- 120 4.2.3 In determining whether a person lives “sufficiently close to the premises”, the Licensing Authority will have regard to such of the following**

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**factors as it considers appropriate to the
circumstances:**

- 121 • the size of the premises**
- 122 • the nature of the premises**
- 123 • the distance of the premises from the
location of the person making the representation**
- 124 • what might, in the opinion of the Licensing
Authority, be reasonably regarded as a potential
impact of the premises (this might for example be
influenced by the anticipated number of customers,
routes likely to be taken by those visiting the
premises etc.)**
- 125 • the nature of the complainant. This is not
meant to cover the personal characteristics of the
complainant, but the interest of the complainant
where they may be relevant to the distance from
the premises. For example, the Licensing Authority
is likely to apply a wider interpretation to the
meaning of “sufficiently close” where the
complainant provides services attended by
children or vulnerable adults and**
- 126 • such other factors as it considers are
relevant.**
- 127 4.2.4 In determining whether a business interest is
“likely to be affected”, the Licensing Authority will**

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**have regard to such of the following factors as it
considers appropriate to the circumstances:**

128 the size of the premises

**129 the “catchment” area of the premises (i.e. how far
people travel to visit)**

**130 • the nature of the business that is suggested
might be affected and**

**131 • such other factors as it considers are
relevant.**

**132 4.2.5 In determining whether a person is regarded
as representing a person in either of the other two
Interested Party categories, the Licensing Authority
in particular considers that the following may fall
within this category:**

**133 • Members of Parliament or Elected
Councillors**

134 • Residents’ and tenants’ associations and

135 • Trade unions and trade associations

**136 4.2.6 The Licensing Authority will not necessarily
consider a person as representing one of the other
categories of Interested Party unless the person
can demonstrate:**

**137 • that they have specifically been requested in
writing to represent that person and / or business**

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in relation to the submission of the representation
and / or**

138 • that, in the case of a body, it represents a significant number of persons that have made submission with regards to the representation.

139 4.2.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Borough of Poole Legal and Democratic Services for advice.

140 5. Responsible Authorities and Interested Parties

141 5.1 Representations

142 5.1.1 A representation made by a Responsible Authority or Interested Party that is not withdrawn following mediation or dispute resolution will normally result in a hearing.

143 5.1.2 In certain circumstances however, a hearing need not take place. For example, where the

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**Licensing Authority considers that the
representation:**

144 • is vexatious

145 • is frivolous

**146 • will certainly not influence the authority's
determination of the application**

147 6. Disclosure/Exchange of Information

148 6.1 Exchange of Information – General

**149 6.1.1 The Act, and other legislation such as the
Data Protection Act 1998 and the Freedom of
Information Act 2000, places various statutory
duties and responsibilities upon the Licensing
Authority in relation to the exchange and
disclosure of information that is available to it.**

**150 6.1.2 The Licensing Authority in carrying out its
duties will have full regard to the provisions of the
Data Protection Act 1998 and the Freedom of
Information Act 2000. A guide to information held
by the Borough of Poole and freedom of
information requests can be found via the following
link:**

**151 [http://www.poole.gov.uk/your-council/data-
protection-and-information-requests/guide-to-
information-we-publish/](http://www.poole.gov.uk/your-council/data-protection-and-information-requests/guide-to-information-we-publish/)**

**152 6.2 Exchange / Disclosure of Information –
Principles**

**153 6.2.1 The principle that the Licensing Authority
applies is that it will act in accordance with the
provisions of the Gambling Act 2005 in its
exchange of information. It will have regards to**

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Guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided within the Act.

154 6.2.2 Where the Licensing Authority has discretion as to whether or not information may be disclosed / exchanged it will in particular normally have regard to the following principles:

155 • any request that is received for the disclosure of information will be considered on its merits having regard to any general statutory principles that might apply

156 • upon receipt of a request for any exchange or disclosure, information will not normally be withheld where it is considered by the Licensing Authority that this may aid in the promotion of the licensing objectives, and does not unacceptably conflict with other factors which the Licensing Authority considers as being of relevance to it and

157 • the Licensing Authority may also provide information available to it, whether a request has been received or not, if it considers it may aid in the promotion of the licensing objectives, and does not unacceptably conflict with other factors as identified above.

158 6.2.3 Where representations are received in relation to any function being exercised by the Licensing Authority under the Act, those representations will normally be disclosed to an extent that the Licensing Authority considers reasonable in the circumstances. Information will

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**not be disclosed where statute expressly prevents
its disclosure.**

159 7. Enforcement

160 7.1 Enforcement – General

161 7.1.1 The Act provides various bodies including the Licensing Authority with power to authorise persons to undertake inspections for a variety of purposes. Furthermore the Licensing Authority has the capacity to instigate criminal proceedings for various offences that are specified within the Act.

162 7.2 Inspections and instituting criminal proceedings – Principles

163 7.2.1 In considering whether to undertake an inspection of a premise, the Licensing Authority will be guided by the Gambling Commission's Guidance and will endeavour to be:

164 • Proportionate: regulators should only intervene when necessary: remedies should be

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**appropriate to the risk posed, and costs identified
and minimised**

- 165 • Accountable: regulators must be able to justify decisions, and be subject to public scrutiny**
- 166 • Consistent: rules and standards must be joined up and implemented fairly**
- 167 • Transparent: regulators should be open, and keep regulations simple and user friendly and**
- 168 • Targeted: regulation should be focused on the problem, and minimise side effects.**
- 169 7.2.2 This licensing authority has adopted and implemented a risk-based inspection programme, based on:**
 - 170 • The licensing objectives**
 - 171 • Relevant codes of practice**
 - 172 • Guidance issued by the Gambling Commission, in particular at Part 36 and**
 - 173 • The principles set out in this statement of licensing policy**
- 174 7.2.3 In considering whether to undertake an inspection of a premises, the Licensing Authorities will in particular have regard to the following principles:**
 - 175 • When considering whether to undertake any inspection each situation will be considered on its own merits;**
 - 176 • An inspection will not normally be undertaken unless it is considered relevant for the**

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**purposes of an application or actual or potential
enforcement issue;**

- 177 • will exercise its responsibilities in relation to inspections having regard to the further principles set out below.**
- 178 • Promoting efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on businesses.**
- 179 7.2.4 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities the licensing authority will undertake to liaise with the Gambling Commission to determine what, if any, test purchasing schemes may already be in place. Irrespective of the actions of the operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.**
- 180 7.2.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises**
- 181 7.2.6 As per the current Gambling Commission's Guidance to Licensing Authorities it will endeavour to avoid duplication with other regulatory regimes so far as possible**
- 182 7.2.7 In considering whether to exercise its powers in relation to the institution of criminal proceedings in the Act, the Licensing Authority will**

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in particular have regard to the following
principles:**

- 183 • each case will be considered on its own merits**
- 184 • in so far as it may be relevant to the assessment, whether the Licensing Authority has acted in accordance with the enforcement policy of the Borough of Poole (as may be amended from time to time) and the Regulatory Code of Conduct that is current at that time (if any)**
- 185 • whether the instigation of criminal proceedings accords with the Code for Crown Prosecution Service current at that time (if any) and**
- 186 • in so far as it may be relevant to the assessment, that it will undertake proceedings in**

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**accordance with the principles set out in 7.2.1
above.**

**187 7.3 Carrying out enforcement responsibilities –
Risk**

**188 7.3.1 Criteria that may normally contribute to an
assessment to determine the level of risk that
applies to a premise are:**

189 • the size of the premises

**190 • the proximity of the premises to identified
vulnerable persons**

**191 • whether any complaints are received in
relation to the premises and, if so, the nature and
number of complaints that are considered relevant**

192 • the history of the premises

**193 • information submitted from relevant persons
or bodies and**

**194 • such other factors as the particular
circumstances of the individual situation warrant.**

195 Notices

195.1 Temporary Use Notices

**195.1.1 A Temporary Use Notice may be used where a gambling
operator wishes to use premises (as identified in the Act) where
there is no premises licence for temporarily providing facilities
for gambling.**

195.1.2 Temporary Use Notices – Miscellaneous

**195.1.3 A Temporary Use Notice may only be granted to a person or
a company holding a relevant operating licence.**

**195.1.4 The same set of premises may not be the subject of a
temporary use notice for more than twenty-one days in any**

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twelve month period, but may be the subject of several notices provided the total does not exceed twenty-one days.

195.1.5 It is for the Licensing Authority to determine in each case as to what constitutes a set of premises.

195.1.6 **Temporary Use Notices – Decision Making**

195.1.7 Where an objection has been received in relation to a Temporary Use Notice, and then if the Licensing Authority considers that it should not have effect or should have effect only with modification, the Licensing Authority may give a counter-notice.

195.1.8 A counter notice providing that a Temporary Use Notice will not take effect will be given by the Licensing Authority where the notice would contravene the maximum number of days available for a set of premises.

195.1.9 The counter-notice can prevent the Temporary Use Notice from having effect or may limit the Notice in other various prescribed ways.

195.1.10 The principles that the Licensing Authority applies in deciding whether to issue a counter-notice are the same as those in determining Premises Licence applications.

195.2 Occasional Use Notices

195.2.1 **Occasional Use Notices - General**

195.2.2 Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a Premises Licence.

195.2.3 **Occasional Use Notices – Miscellaneous**

195.2.4 Occasional Use Notices may not be relied upon for more than eight days in a calendar year.

195.2.5 The Act prescribes the requirements and process for using such notices; this includes giving Notice to the Licensing Authority and copying it to prescribed parties.

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Appendix

APPENDIX A Map showing the Borough of Poole

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APPENDIX B

195.2.6 Summary of Licensing Authority delegations permitted under the Gambling Act 2005

Matters To Be Dealt With	Full Council	Licensing Authority Sub-Committee	Officers (As set out in Standing Orders)
Three year Statement of Principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received and not withdrawn	Where no representations received from the Commission.
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permit		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn.
Cancellation of club gaming/club		X	

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machine permits			
Application for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Full details on the different types of licences/notices, application processes, fees, and the requirements with regard to submission of plans are available on the Council's website - www.poole.gov.uk