



GOSSCHALKS  
SOLICITORS

BY EMAIL ONLY  
Licensing Team  
Chiltern District Council

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**Your ref:**  
**Date:** 27 June 2018

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process

(including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

## Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

## Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

## Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

## Other concerns

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

## Considerations specific to the Draft Gambling Act 2005 Statement of Principles

Whilst the foreword does not form part of the policy, we wonder whether or not this should be re-drafted. For a start it refers to “new legislation” when the legislation has now been in force for over 10 years. In addition, the foreword refers to the Council “promoting 3 principal licensing objectives”. The concept of promoting or the promotion of the licensing objectives is fundamental as far as Licensing Act 2003 is concerned but Gambling Act 2005 requires that Licensing Authorities have regard to the licensing objectives and that all applications must be reasonably consistent with the licensing objectives. The only body upon whom Gambling Act 2005 confers a duty to promote the licensing objectives is the Gambling Commission (Section 22 Gambling Act 2005).

For the reasons outlined about, the reference to “promoting” the licensing objectives should be amended.

On behalf of the ABB we welcome the recognition in paragraph 2.1 that the starting point for all applications will be to grant the application with only the mandatory and default conditions subject to that application being in accordance with the LCCP, Gambling Commission Guidance, the Statement of Principles and the operation being reasonably consistent with the licensing objectives.

The statement at paragraph 2.7 should be amended to reflect changes to the Gambling Commission Guidance to Licensing Authorities. The 5<sup>th</sup> edition (September 2015 which was updated in September 2016) is clear that as far as betting premises are concerned, unless the operator offers substantive facilities for non-remote betting it should not make gaming machines available for use of the premises. The concept of “primary gambling activity” as outlined in paragraph 2.7 is no longer used by the Gambling Commission and as long as a betting operator provides substantive facilities for betting then gaming machines may be available for use. There is no need for a contest between machine use and over the counter betting as long as those facilities are provided. In the circumstances this paragraph should be amended as whilst it reflects the position when the Statement of Principles came into force in 2016, it does not reflect the current position.

The new section on local risk assessments (paragraph 8.1) explains the new requirements in paragraph 8.1 and 8.1.2. Thereafter (at 8.1.3) there is a list of bullet points which explain the Council’s expectations with regard to matters to be considered as part of the local risk assessment. This list of bullet points needs to be amended as it contains matters that are not relevant.

The requirement for local risk assessments is for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities and to ensure there are policies, procedures and control measures to mitigate those risks. It follows, therefore, that the list of bullet points must be relevant to the licensing objectives.

The first bullet point requires operators to consider whether the premises is in an area of deprivation. This cannot be relevant to an assessment of the licensing objectives unless the Licensing Authority has pre-determined that certain socio-economic groups or persons of a certain income level are automatically vulnerable or more likely to commit crime. We are certain that this pre-determination has not taken place and therefore the bullet points relating to deprivation, unemployment and rough sleepers/homeless people should be removed.

Paragraph 8.3 explains the Licensing Authorities approach to location. This paragraph should be amended as it refers to the possibility of a policy being adopted that there may be areas where gambling premises should not be located. Such a policy is likely to be unlawful and is certainly contrary to the overriding principle contained in section 153 Gambling Act 2005 that the Licensing Authority should aim to permit the use of premises for gambling. The references to the policy should therefore be removed.

Paragraph 8.5 explains the Licensing Authority’s approach to conditions. This section would be assisted by a clear indication that all Gambling Act 2005 premises licenses are subject to mandatory and default conditions which are usually sufficient to ensure operation that is

reasonably consistent with the licensing objectives. The Statement of Principles should also indicate that additional conditions will only be imposed where there is clear evidence of a need to supplement the mandatory and default conditions in the circumstances of a particular case/premises. The reference in paragraph 8.5.2 that conditions may be imposed where there is a “perceived need” should therefore be removed.

Similarly, paragraph 8.6 (door supervisors) should be clear that conditions relating to door supervision should only be considered if there was evidence of a particular need in the circumstances of a case for such a condition to be considered.

Finally, paragraph 8.12 (betting premises) would be clarified if a clear distinction was made between betting machines and gaming machines. The paragraph correctly indicates that the Licensing Authority has the power to limit the number of betting machines but there is no such power to limit the number of gaming machines. The holder of a betting premises licence may make available for use up to four gaming machines of categories B, C, or D by virtue of Section 172 (8) Gaming Act 2005.

## **Conclusion**

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,

## **GOSSCHALKS**