



**Review of Gambling Act Statement of Principles
Consultation Results Report
Adult and Health Services**

29 September 2016

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1. Background

Durham County Council's Gambling Act Statement of Principles, more commonly referred to as 'the "gambling policy"' was introduced in 2013.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and are:

- preventing 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;

Licensing authorities are required to consult with anyone who may be affected by or otherwise have an interest in their statement of policy to enable a comprehensive consultation exercise.

The statement was due to be reviewed in 2016 and a consultation was carried out.

Policy review

A review of the policy took place in spring 2016 when changes to the policy were considered in the following areas:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
- **Inclusion of a reference to the council seeking guidance from primary authorities prior to taking enforcement action** - Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the RES Act). It allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its 'primary authority'.

The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the DCMS.

Respondents were also asked for any comments they had on the gambling statement.

Consultation

A 12 week public consultation was held between Monday 4 July and Monday 26 September 2016.

This report describes the consultation process and provides details of the feedback obtained.

2. Methodology

The purpose of the consultation was to obtain feedback on proposed revisions to the gambling act statement of principles as part of a review of the policy.

An engagement plan was developed in line with the council's consultation approach ensuring all appropriate, available communication channels were utilised to maximise awareness and encourage participation in the consultation.

Engagement methods

Respondents were able to take part in the consultation using the following methods:

- 1) Emailing any comments to **licensing@durham.gov.uk**
- 2) Writing any comments to: **Licensing Services, Annand House, John Street North, Meadowfield, County Durham, DH7 8RS**

Information about the proposed revisions to the gambling policy was published on the Council website. This included a briefing note outlining the changes.

Equality and Diversity Impact Assessment

An equality and diversity initial screening was carried out on this policy review. The screening identified that the impact and outcome of the consultation will have a positive impact across all equality groups and will not affect relations between different communities or groups.

The equality and diversity impact assessment is to be reviewed following consideration of the consultation results.

Promotional mechanisms

A range of communication mechanisms, open to the council, were used to raise awareness of the consultation and encourage participation. These included:

- A consultation webpage created specifically for the review of Gambling Act Statement of Principles. This page included a briefing note (*appendix 1*) providing details of the proposed changes and details of how to submit comments.
- Press release to the general public at the start of the consultation to prompt participation.
- Social media posts signposting to the Gambling Act Statement of Principles consultation webpage.
- Promotional slides on display in Durham County Council customer access points
- Information in the County Council's staff magazine 'Buzz'.
- Information in the County Council's magazine for local members 'Members Update'.
- Information in the County Council's magazine for residents, 'Durham County News'
- Information in the County Council's newsletter for customer services, 'CSI'
- Letter or email sent to the following stakeholders and consultees:
 - Licensee holders
 - County Durham MPs
 - Local members
 - Area Action Partnerships (AAP) and their networks
 - Town and parish councils
 - The Chief Officer of Police
 - Association of British Bookmakers
 - The Bingo Association
 - British Amusement Catering Trade Association
 - British Beer and Pub Association
 - Gamblers Anonymous, GamCare, The Gordon House Association, Responsibility in Gambling Trust
 - North East Chamber of Commerce (NECC)
 - Area action partnerships
 - Durham BID
 - North East Strategic Licensing Group
 - Citizens Advice County Durham

3. Consultation results and feedback

One response was received by email from Gosschalk Solicitors acting for the Association of British Bookmakers (ABB). Please see below.

3.1 Email feedback received – Gosschalk Solicitors



Licensing Services

Annand House

John Street North

Meadowfield

County Durham

DH7 8RS

Please ask for: Richard Taylor

Direct Tel: 01482 590216

Email: rjt@gosschalks.co.uk

Our ref: RJT / LHF / 097505.00004

#GS932813

Your ref:

Date: 23 August 2016

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. Our 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 2016-19 gambling policy statement.

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 at 31 Mar 2016 were 8,809 - a decline of over 300 since March 2014, when there were 9,137 recorded.
- recent 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.

The ABB welcomes your proposal to amend the policy to indicate that where an operator has a primary activity relationship, the licensing authority will liaise with both the operator and primary authority in relation to any proposed enforcement action.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators are 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'.

We note that there is a proposal to include within the new policy signposts to local information to help operators complete local risk assessments. It is important that these signposts focus upon matters that are relevant to the issue of whether the operation of the premises poses a risk to the licensing objectives. Whereas the proximity of the a local school or center to assist those with gambling problems may be relevant, issues such as the proximity of pay day loan shops, pawn shops, transport interchanges etc are not relevant. Similarly references to age, ethnicity or the economic make-up of the area should be avoided as these cannot be relevant to an assessment of whether the premises could pose a risk to the licensing objectives.

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 we and our 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 contact us.

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 what 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 our 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.

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

Gambling Act 2005 Statement of Principles Consultation

Briefing note
July 2016



Introduction

The Council is required by the Gambling Act 2005 to publish a statement of principles (also known as the 'gambling policy') which sets out how we will carry out our work and determine licence applications for a variety of gaming and betting facilities.

The statement includes three objectives which underpin the role of the Gambling Commission and the council in fulfilling their statutory obligations of gambling licensing in County Durham. These objectives are:

- preventing 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.

The current policy was introduced in January 2013 and is now due for review. As part of this review, we intend to maintain the above three objectives and invite comments on proposals for revisions as per the below:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks.
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
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The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the Department for Culture, Media & Sport.