
Gambling Act 2005 - Northumberland County Council Statement of Principles Consultation

1 message

elizabeth speed

7 August 2018 at 11:45

To:

Cc: Tracey Rose

Dear Sirs

Gambling Act 2005 – Statement of Principles Consultation

Thank you for the opportunity to make comments on the above consultation. On behalf of Luxury Leisure, I make the following comments in relation to the consultation draft (the "Draft"): -

1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally, under the Code, when designing and reviewing policies, the Authority must among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. While the Code is referred to on page 12 of the Draft, its ambit is much wider and I suggest it is acknowledged as applicable on the Authorities activities under the Draft generally.
2. Section 2: page 7 - 4th bullet point – the suggestion that operators should demonstrate "understanding of best practice issued by organisations that represent the interests of vulnerable persons", is, with respect, far too vague and wide ranging to be enforceable and for the same reasons would be an extremely onerous obligation. Exactly who represents the interests such persons? What if the material issued by different bodies/persons conflicts? Where is the information to be obtained from and how? The LCCP sets out a vast range of detailed obligations on licensees in relation to matters of Social Responsibility, which should be more than adequate for the Authority.
3. Section 2: page 7 - Neither the Act nor the LCCP prohibit the advertising of a legal and licensed business and activity. Licensees are bound by the CAP code and the extensive SR provisions on advertising and the suggestion that advertising should not entice passers-by goes well beyond what is reasonable or required.
4. Section 5: page 9 – S158 of the Act, sets out the categories of persons who qualify as "Interested Parties". They include persons who represent either persons who live sufficiently close to the premises, or have business interests that might be affected by the activities. This was plainly aimed at democratically elected persons, or formal representative bodies such as trade unions or residents' associations. Head teachers might be included, as might community groups, as suggested in the Commission's Guidance.

The wording of the 2nd bullet point on this page seeks to go far beyond those principles. Indeed, during the passage of the Act, an attempt was made to extend the definition of "interested party" to include any person who had concerns or responsibility about the wellbeing of the community. That is very similar to words proposed in the Draft. That was opposed and the amendment was withdrawn. The suggestion in the Draft that any individuals or organisations "concerned with or involved with" the wide range of interests and issues,

automatically qualifies as a representative of those that live sufficiently close to the premises, is with respect not consistent with the intentions of the act and appears to inappropriately seek to squeeze persons into the definition of Interested Parties. We strongly suggest that this paragraph is revisited.

5. Section 3 page 15 – 12th bullet point: the wording is rather vague and it is not at all clear what information the Draft suggests is “shared” and exactly with whom (it refers to “agencies” as one example). Plainly under GDPR we cannot share information about individuals. The LRA deals about the risks that the specific facilities might pose and how they will be dealt with – it is not intended to be a template for the sharing of information.

6. The penultimate paragraph of Section 3 states that it is “a requirement” that the LRA is kept on the premises. The LRA is a creature to the LCCP – which makes no such requirement. With respect it is not therefore for the Authority to insist on this. Perhaps a recommendation would be more appropriate.

7. Section 6: page 20 and Sections 7 and 8 pages 22 and 23 - I refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended. Accordingly, the wording of Section 6 is not correct. The premises do not have to be constructed before an application for a premises licence can be made. Similarly, the references to “finished buildings” in sections 7 and 8 are not appropriate.

8. Section 6: page 21 – As the authority appreciates, children are legally permitted to take part in limited types of gambling (Category D machines). We suggest that this is acknowledged in the first paragraph of this section.

9. Sections 13 and 14: page 25: – We do not understand why the list of possible provisions at 10 and 11 are not repeated for bingo and Betting premises, where they are at least as relevant. Indeed, the stake/bet that can be made and prizes won are greater in those premises than in AGCs and FECs. It seems inconsistent not to repeat the points

I hope that the above proves useful. If you have any questions, please do not hesitate to contact me.

Yours faithfully,

Elizabeth Speed

Group General Counsel

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Statement of Principles 2019-2022 Review

1 message

Catherine Sweet

10 July 2018 at 11:11

To:

Hello,

Thank you for your letter regarding the above review, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,
Catherine

Catherine Sweet

Head of Marketing and Communications

T: 020 7801 7028



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SOLICITORS

Licensing Section
Northumberland County Council

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email:
Our ref: RJT / LHF / 097505.00005
#GS1770714
Your ref:
Date: 15 August 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

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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 2019 - 2022

Part A – 2. The Licensing Objectives

The paragraph explaining the first licensing objective (preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime) should be redrafted. The first paragraph indicates that the council will have to be satisfied that the premises "*will not adversely affect the licensing objectives...*" whereas the requirement is that the council will have to be satisfied that the premises are "*reasonably consistent with the licensing objectives*".

The following paragraph suggests that the applicant must provide evidence to demonstrate that in operating the premises, it will promote this licensing objective. This paragraph should either be redrafted or deleted. There is no requirement for an applicant to provide evidence that it will promote the licensing objectives. Indeed, the only body upon whom Gambling Act 2005 confers a duty to promote the licensing objectives is the Gambling Commission. Applicants and operators are required to operate premises that are reasonably consistent with the licensing objectives.

Part B – 2. Location

The second paragraph under this heading should be deleted. This refers to the potential for a policy with regard to areas where gambling premises should not be located and if such a policy is adopted, then the Statement of Principles would be updated. Such a policy is likely to be unlawful and is certainly contrary to the overriding principle that the licensing authority must aim to permit the use of premises for gambling contained within S153 Gambling Act 2005. In the circumstances, all references to such a policy should be deleted.

Part B – 4. Decision Making

There are references under this heading to the concept of Primary Gambling Activity. This concept is no longer used by the Gambling Commission and the tests for Primary Gambling Activity contained within the draft Statement of Principles no longer apply. The Gambling Commission Guidance to licensing authorities is clear that gaming machines are only to be made available in combination with the non-remote activity of the operating licence. A betting premises operator must offer substantive facilities for non-remote betting in order to make gaming machines available for use. This section needs to be redrafted to reflect this. The indicators of Primary Gambling Activity derive from a Gambling Commission advice note dated October 2013 and is accordingly rather dated.

Part B - 6. Conditions

The draft Statement of Principles would be assisted by a clear statement that all Gambling Act 2005 premises licences are subject to mandatory and default conditions which are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives.

Furthermore, the draft Statement of Principles should be clear that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case such that there is a need to supplement the mandatory and default conditions with additional conditions.

This evidential basis for the imposition of conditions is important and the Statement of Principles should be clear that conditions will not be imposed simply where there is a “perceived need” or where it is “believed to be appropriate”.

Part B – 14. Betting Premises

This section should be amended to make clear the distinction between betting machines (where the licensing authority has a power to limit numbers) and gaming machines where there is no such

power. The holder of a betting premises licence may make available for use up to 4 gaming machines of categories B, C or D (S172(8) Gambling 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



Licensing Mailbox <licensing@northumberland.gov.uk>

Fwd: statement of principles

1 message

Vicki Smith

17 August 2018 at 13:43

To: licensing@northumberland.gov.uk

Dear Licensing

Amble Town Council would like to make the following comment in relation to the Draft Statement of Principles

" A comprehensive easily understood document with all relevant safeguards included"

Yours sincerely

Vicki

Vicki Smith

Town Clerk & Responsible Financial Officer

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