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Scarborough Borough Council

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

The Draft Statement of Licening Policy (Gambleing Act 2005) consultation was undertaken during the period 1 May 2018 to 31 July 2018.

A questionnaire style survey was sent to the residents panel, business panel, licence holders, Councillors and voluntary organisations.

A copy of the consultation was also placed on-line for the general public to comment on the policy.

A total of 20 responses were received for this survey

Responses to this consultation were received from the folloiwng interested parties:

Delmont Social Club
North Yorkshire Police

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

	Yes	No
We have changed the layout and style of the Policy to make it more accessible and easier to understand.	20	0
Do you agree the Policy is now more accessible and easier to understand?	100.0%	0.0%
1.1 We have revised the introduction and included additional information relating to the local area and clarified who we consult with when revising the Policy.	20	0
Do you agree these changes have been beneficial?	100.0%	0.0%
1.9 & 1.11 We have introduced two new sub-sections which set out the Licensing Authority's broad principles and functions, together with the matters considered in developing the Policy.	20	0
Do you agree with the principles and matters considered?	100.0%	0.0%
4.1 The Gambling Commission recommends that local authorities create new and unique localised policies and also carry out an assessment of their local environment called a 'local area profile' (LAP) to identify the local risk of gambling-related harm and to inform the Policy. Officers intend to carry out an assessment separate to this Policy.	19	1
Do you agree with this proposal?	95.0%	5.0%
5.19 A new section has been introduced which outlines the Licensing Authority's powers to restrict the number of betting machines based on factors such as size of premises, number of counter positions and staff supervision.	20	0
Do you agree with these factors?	100.0%	0.0%
6.2 We are proposing that Officers should be able to determine applications for more than 2 gaming machines in alcohol licensed premises like pubs. This is instead of these applications being determined at a Licensing Sub-Committee Hearing; the option to refer applications to the Sub-Committee will however remain.	16	4
Do you agree with this proposal?	80.0%	20.0%
6.7 The Statement of Principles for unlicensed family entertainment centres have been revised and updated. In addition we have removed references to specific application requirements in favour of evidence that policies and procedures are in place to protect children from harm. It is felt this provides applicants with a more flexible approach in demonstrating how they intend to protect children.	19	1
Do you agree with this proposal?	95.0%	5.0%

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

We have changed the layout and style of the Policy to make it more accessible and easier to understand.

Do you agree the Policy is now more accessible and easier to understand?

	Percent of Responses
Yes	100.0%
No	0.0%

Draft Statement of Licensing Policy (Gambling Act 2005) Q1 - comments	Accepted into Policy?	Reason why or why not?
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No comments have been received

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

1.1 We have revised the introduction and included additional information relating to the local area and clarified who we consult with when revising the Policy.

Do you agree these changes have been beneficial?

	Percent of Responses
Yes	100.0%
No	0.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 1.1 - comments	Accepted into Policy?	Reason why or why not?
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No comments have been received

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

1.9 & 1.11 We have introduced two new sub-sections which set out the Licensing Authority's broad principles and functions, together with the matters considered in developing the Policy.

Do you agree with the principles and matters considered?

	Percent of Responses
Yes	100.0%
No	0.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 1.9 & 1.11 - comments	Accepted into Policy?	Reason why or why not?
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No comments have been received

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

4.1 The Gambling Commission recommends that local authorities create new and unique localised policies and also carry out an assessment of their local environment called a ‘local area profile’ (LAP) to identify the local risk of gambling-related harm and to inform the Policy. Officers intend to carry out an assessment separate to this Policy.

Do you agree with this proposal?

Percent of Responses	
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Yes	95.0%
No	5.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 4.1 - comments	Accepted into Policy?	Reason why or why not?
I do not fully understand this proposal, if gambling is in any way harmful physically then this proposal is relevent if not then back to the drawing board on this one?	N	The purpose of a Local Area Profile is to increase awareness of any identified risks and reported gambling-related problems in the local area. The profile will assist Operators of gambling related premises in completing their required risk assessments which must take into account the nature and characteristics of the local area within which they operate.

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

5.19 A new section has been introduced which outlines the Licensing Authority's powers to restrict the number of betting machines based on factors such as size of premises, number of counter positions and staff supervision.

Do you agree with these factors?

	Percent of Responses
Yes	100.0%
No	0.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 5.19 - comments	Accepted into Policy?	Reason why or why not?
In my opinion this is one of the best moves to have been made.	N	Comment

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

6.2 We are proposing that Officers should be able to determine applications for more than 2 gaming machines in alcohol licensed premises like pubs. This is instead of these applications being determined at a Licensing Sub-Committee Hearing; the option to refer applications to the Sub-Committee will however remain.

Do you agree with this proposal?

Percent of Responses	
Yes	80.0%
No	20.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 6.2 - comments	Accepted into Policy?	Reason why or why not?
simple words like: corruption, vulnerability. accountability all come to mind!	N	Comment - Thorough reasons will be provided for all decisions to ensure transparency and accountability.
I basically i do not agree with any form of gambling machines in any public house or restaurant for that matter, it is now usual for minors to be taking into public houses where they will be subject to distraction of the gaming machines. Bad form?	N	Comment - Qualifying alcohol licensed premises are automatically entitled to provide two gaming machines by law, however this only applies to premises which have a bar. In terms of the protection of children licensees must observe a code of practice which emphasises the importance of preventing underage access to machines and ensuring they are adequately supervised.
Applications should be considered by more than one person.	N	Where applications are referred to the Licensing Sub-Committee a panel of three Members of the Licensing Committee will determine the application. Where a decision is made using Delegated Powers it is usual for two Officers to be involved in the decision making process. It is not proposed to make this a specific requirement of Policy as it may adversely impact timely, efficient and effective decision-making. Thorough reasons will however be provided for all decisions made.
Unclear how an officer will determine the relevant holistic principles underpinning the draft policy, eg proximity to other gaming/gambling venues and monitoring/enforcement.	N	This appears to be a general query rather than relating to the question posed.

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

6.7 The Statement of Principles for unlicensed family entertainment centres have been revised and updated. In addition we have removed references to specific application requirements in favour of evidence that policies and procedures are in place to protect children from harm. It is felt this provides applicants with a more flexible approach in demonstrating how they intend to protect children.

Do you agree with this proposal?

	Percent of Responses
Yes	95.0%
No	5.0%

Draft Statement of Licensing Policy (Gambling Act 2005) paragraph 6.7 - comments	Accepted into Policy?	Reason why or why not?
These application procedures need to be more robust and explicit. Don't think allowing applicants a "more flexible approach" wording is sufficient safeguarding reassurance in protecting children.	N	Although specific requirements have been removed, the additional information to be provided with applications is outlined at paragraph 6.9 of the Policy. These requirements include a plan of the premises, the submission of a criminal disclosure check together with details of the policies and procedures in place to protect children from harm. It is not considered that these changes will have an adverse impact as applications which fail to satisfy this criteria are likely to be refused.

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

Are there any other comments you would like to make in respect of the Policy?

Draft Statement of Licensing Policy (Gambling Act 2005) Additional - comments	Accepted into Policy?	Reason why or why not?
no	N	Comment
I agree with all the policies and think that it has been very fair but firm with all the changes.	N	Comment
None	N	Comment
No further comment required?	N	Comment
No	N	Comment
Overall a comprehensive and considered policy on a challenging balance between commercial freedoms and exploitation.	N	Comment
It was positive to see that the Gambling Commission's advice in relation to Local Risk Assessment and ensuring they are available for inspection has been included in this policy at 4.8, ensuring operators are under no illusion that if requested LRA's should be provided. Easy following format to follow.	N	Comment
Aislaby Parish Council's only response to the consultation is that they would like all parish councils to be classed as a statutory consultee for any applications within their designated parish.	N	Unfortunately the statutory consultees are defined by legislation, therefore it is not possible to include Parish Councils or other groups/organisations. All relevant applications are however published on the Council's website.

Draft Statement of Licensing Policy (Gambling Act 2005) 2018

Are you male or female?

	No.	%
Male	16	80.0%
Female	4	20.0%
	20	

Age?

	No.	%
Under 18	0	0.0%
18 - 24	0	0.0%
25 - 29	0	0.0%
30 - 44	0	0.0%
45 - 59	3	15.0%
60 - 64	5	25.0%
65 - 74	6	30.0%
75+	6	30.0%
	20	

To which of these groups do you consider you belong to?

	No.	%
White	17	94%
Polish / Eastern European	0	0%
Mixed	0	0%
Black	1	6%
Asian	0	0%
Chinese	0	0%
Other:	0	0%
	18	

Disability: The Disability Discrimination Act 1995 states that a person has a disability if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities. Do you consider you have a disability in terms of the above definition?

	No.	%
Yes	2	11%
No	17	89%
	19	



GOSCHALKS
SOLICITORS

BY E-MAIL ONLY
LICENSING DEPARTMENT
SCARBOROUGH BOROUGH COUNCIL

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / AW / 097505.00005
#GS2046720
Your ref:
Date: 5 July 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 Statement of Licensing Policy 2019 to 2022

On behalf of the ABB, we welcome the light touch approach to the Statement of Licensing Policy and we have very few suggestions with regard to potential amendments.

Paragraph 1.12 indicates that *"this policy has been written with a view to promoting the three licensing objectives set out in the 2005 Act...."* The concept of promoting the licensing objectives is fundamental as far as Licensing Act 2003 is concerned but in exercising its function under Gambling

Act 2005 the licensing authority is required to have regard to the licensing objectives rather than promote them. In the circumstances, this reference should be amended.

Paragraph 3.28 to 3.30 outline the licensing authority's approach to the imposition of conditions on premises licences. Whilst paragraph 3.28 acknowledges the existence of the mandatory and default conditions, this paragraph would be assisted by a clear statement that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives.

Furthermore, the statement of licensing policy should be clear that additional conditions will only be imposed where there is evidence of a need to supplement the mandatory and default conditions in the circumstances of a particular case. This is alluded to within Paragraph 3.29 but we submit that this should be redrafted so that this is very clear.

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,



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