

Chorley Council

Gambling Act 2005 – Statement of Licensing Policy

Consultation representation analysis: consultation period 23/07/2006 - 13/10/2006

Respondent	Comments	Appraisal	Council response
Trethowans Solicitors on behalf of Association of British Bookmakers	The ABB requests that the policy states: - “...there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervisor requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.”	Noted Point clarified	11.27 added to take account of door supervision requirements for all premises.
	The ABB requests that the policy states: - “While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.	Noted	16.8 amended to include breach of licensing objectives
	The ABB requests that the policy states: - “Likewise, if an application is, in effect, an application for the transfer of a licence from one premises to another close by, with some increase in the size of the customer area, then an authority might well conclude that the grant would not be inexpedient...”	Applications dealt with on a case by case basis	None
	The ABB requests that the policy states: - “ The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.”	Applications dealt with on a case by case basis. No overall statement to this effect should be made.	None

	<p>Paragraph 7.1 and 7.4 appear to be references to Licensing Act 2003.</p> <p>“In relation to paragraph 11.15 page 11 we would be grateful if it could be noted that many betting offices are located near schools or in residential areas but under 18’s are not permitted on the premises. Equally in relation to vulnerable persons most bookmakers operate extremely effective self-exclusion policies. We would therefore suggest that location should not be a factor when considering a betting office application.”</p> <p>Request they are informed of all further consultations and are sent a hard and an electronic copy of the final policy.</p>	<p>Noted. They are not references to the Licensing Act 2003.</p> <p>Noted. Paragraph 11.5 refers to all gambling premises. Each application dealt with on a case by case basis.</p> <p>Noted If appropriate this will occur</p>	<p>None</p> <p>None</p> <p>None</p>
<p>Brindle Parish Council</p> <p><u>AND</u></p> <p>Hoghton Parish Council</p>	<p>The Parish Council considers that Parish Councils should be consulted on the licensing of premises in their area.</p>	<p>Noted Parish Councils will be consulted on the ‘Gambling Act Policy’ But not on individual licensing of premises in their area.</p>	<p>None</p> <p>All applications are publicly displayed. All applications and licences will be available on public registers</p>
<p>Chorley Council Development & Regeneration Directorate</p>	<p>No comment.</p>	<p>N/A</p>	<p>N/A</p>
<p>GamCare</p>	<p>GamCare request that the following areas are included in the policy or as part of the licensing conditions.</p> <ol style="list-style-type: none"> 1) The sale and distribution of controlled drugs and the laundering of the proceeds of drugs to support gambling. 2) Prostitution to feed gambling needs. 3) Any unlawful gaming, gambling and betting. 	<p>1-3 The regulation of gambling by responsible authorities will have regard to the crime and disorder objective.</p>	<p>1-3 No change</p>

	<p>4) All leaflets giving assistance to problem gambling clearly displayed in prominent areas such as toilets for example where they will be more discreet. This will give a certain amount of anonymity.</p> <p>5) Self-exclusion forms available.</p> <p>6) Operator must have regard to best practice issued by organisations that represent the interests of vulnerable people.</p> <p>7) On machines such as F.O.B.T, S odds being clearly displayed.</p> <p>8) All A.T.M or cash terminals to be separate from gaming machines so that clients will have to leave there for more funds if so required. They should also display stickers with GamCare helpline information positioned prominently on machines.</p>	<p>See policy – 12.5,13.4,17.16 and 22.4</p> <p>It is anticipated that operating licences will be subject to codes of practice conditions</p> <p>This is for each individual operator</p> <p>This is a Gambling commission matter not licensing authority</p> <p>It is anticipated that ATM,s will be subject to a mandatory condition. ATM,s to be positioned so that customers must cease gambling at gaming tables/machines in order to use them.</p> <p>It is anticipated that operating licenses will be subject to Codes of practice provisions including social</p>	<p>No change to policy</p> <p>No change to policy</p> <p>No change to policy</p> <p>No change to policy</p> <p>No change to policy. Further guidance from gambling commission</p>
--	--	--	---

	<p>9) Social responsibility must be adhered to at all times and mentioned at all times when reasonable.</p> <p>10) It has been mentioned in the principles however it is so important clear visible signs of age restriction are clearly displayed in gaming and betting establishments, also entrances to gambling and betting areas are well supervised and identification verified.</p> <p>11) Posters displayed suggesting “Stay in Control” of your gambling with details of GamCare telephone number and website.</p> <p>12) Please ensure that fruit machines are not situated in Mini-cab offices or takeaways or other unlicensed premises where children may have access to them.</p>	<p>responsibility and the positioning of ATM’s</p> <p>One or more of the codes of practice issued by the Gambling Commission will cover social responsibility.</p> <p>See 12.3.12.5, 13.417.3 and 17.15 of the policy</p> <p>See above</p> <p>Not applicable. Chorley has a policy of not issuing licences permits for such premises. It is currently and will continue to be enforced.</p>	<p>No change to policy</p> <p>No change to policy</p> <p>No Change to Policy</p> <p>No Change to Policy</p>
British Beer & Pub Association	<p>“Paragraph 22.1 rightly explains that there is an automatic entitlement for 2 machines with the licensee simply required to notify the local authority.” Paragraph 22.2 is confusing as it refers to applications and should not be included in the final policy.</p>	<p>Agree remove</p>	<p>Paragraph 22.2 removed</p>

	<p>Under the new regime, when operators apply for additional machine permits and they are complying with the Gambling Commission Code of Practice, there is no reason why these should not be granted. It would be helpful if the Statement of Principles could reflect this.</p> <p>The Association would welcome the inclusion in the policy of an outline of the application procedures for permits for more than two machines. The Association would support an approach that grants up to four machines without the need for a hearing. The Association hopes the Council adopts the LACORS application form for permits once it is produced.</p> <p>It would be helpful if some reference to transitional arrangements could be included either in the policy or in the form of separate guidance.</p>	<p>Noted Each application dealt with on a case by case basis</p> <p>Noted Application procedures will be included in guidance notes. Following research the authority will make use of application forms.</p> <p>Noted Will be dealt with in future authority guidance papers.</p>	<p>None</p> <p>None</p>
British Amusement Catering Trades Association	For reference only	Noted	Noted
Gambling Commission	Paragraph 11.26 currently reads "... such a person would normally need to hold a licence from the Gambling Industry Authority..." This sentence should read "...a licence from the Security Industry Authority..."	Noted	Changed

Howard Bee – Licensing Manager
Chorley Borough Council
Civic Offices
Union Street
CHROLEY
Lancashire
PR7 1AL

Fax: 023 8033 7902
E-Mail: jane.walker@trethowans.com
Our Ref: NJW01/127660/ABB
Your Ref:

25 July 2006

26 JUL 2006

Dear Sirs

Draft Gambling Policy

On behalf of the Association of British Bookmakers we are pleased to have an opportunity to respond to your draft Gambling Act licensing policy.

The Association of British Bookmakers

Off-course bookmakers were first recognised in legislation by the Betting and Gaming Act of 1960. The industry now consists of approximately 8,500 betting offices in Great Britain, which makes them by far the most numerous type of dedicated gambling facility; the average authority having about 20 betting offices within its area. The Association of British Bookmakers is the representative association for businesses holding nearly 7,000 betting office licences, and will be responding to consultations on all the licensing policies in Great Britain.

Before the advent of the Gambling Act 2005, there was no national regulator for bookmakers. However, the industry has been extremely successful at policing itself. Bookmakers have given rise to no or few regulatory concerns. For example, there are few if any prosecutions of bookmakers or revocations of betting office licences, no suggestion of underage betting in betting offices and no suggestion that betting offices cause nuisance to surrounding users. Crime and disorder is extremely rare in betting offices, and there is no evidence that bookmakers have operated their business in such a way as to exploit the vulnerable. Of course, alcohol is not sold in betting offices. Betting offices have been good neighbours to both residential and commercial occupiers. A primary objective of the ABB has been to help create betting environments in which the public enjoys fair and responsible gambling. It has to a large extent been assisted by the demographics of the industry, in which there are some very large participants, e.g. Ladbrokes, William Hill, Coral, the Tote and Dones (Betfred). These operators set a high standard, in terms of offices and customer service, which new entrants have naturally striven to match.

The ABB welcomes the new legislation, and the opportunity to work with licensing authorities, so as to consolidate and continue the enormous advances made by the industry, in a way which benefits customers while avoiding regulatory concerns. The ABB hopes and expects that a light touch approach will be taken to the imposition of conditions and regulatory burdens on the industry, save in so far as this is necessary and proportionate in individual cases.



Lexcel
PRACTICE MANAGEMENT STANDARDS
THE LAW SOCIETY



infocus |
Intellectual property and e-business solicitors

Trethowans - solicitors regulated by The Law Society

127660

We would take the opportunity to comment on some specific aspects of your policy. You will see that in certain areas we have been sufficiently bold as to suggest wording for the policy. The reason for this is that the ABB's members are keen, so far as possible, to achieve consistency between licensing policies, for the benefit of all involved in the system.

Door supervision

Because of the success of the betting industry in managing its offices, and because of the general nature of betting clientele, door supervisors are not employed in betting offices. Premises are supervised from the counter. Door supervision has not been operationally required, and neither the licensing justices nor the police have suggested that door supervision is necessary.

We would refer to the Gambling Commission's Guidance at paragraph 9.26. This requires that conditions should only be imposed when they:

- are relevant to the need to make the proposed building suitable as a gambling facility;
- are directly related to the premises and the type of licence applied for;
- are fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respects.

We would specifically ask that the policy reflect this by stating:

"... there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate."

Betting machines

Reference to betting machines is made in section 181 of the Gambling Act 2005. These are machines on the shop floor of the betting office through which a customer can place a bet without having to visit the counter. They should not be confused with fixed odds betting terminals (which will be Category B2 gaming machines under the legislation) or amusement with prize machines ('fruit machines').¹ While up to four FOBTs / AWP's will be found in the great majority of betting offices in the country, the number of betting machines is vanishingly small. And there is no evidence at all that, where they do exist, they are causing any harm. They are machines on which one may place a bet in an adult only environment, not machines upon which rapid gambling may occur. For these reasons, while the section 181 discretion is acknowledged, it is respectfully suggested that the policy state that:

" While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter."

Re-site applications

Over the last two decades in particular, betting offices have been subject to an evolutionary process of enlargement and improvement to accommodate the more extensive facilities and technology now demanded by their customers, for example more and larger screens, full toilet

¹ While FOBTs/AWP's clearly accept bets for the purpose of playing directly on these machines, for instance inserting a £20 note into a FOBT to play roulette, the customer cannot use these machines to bet on other events available in the betting shop e.g. horse/dog races and football matches.

facilities for male, female and disabled customers, level entrances, comfortable seating, no smoking areas, machines, information terminals and so on. Frequently, this has involved resiting within the same locality. Under the former regime, such re-sites were positively welcomed by licensing authorities concerned to improve the general level of facilities in their area, and were rarely objected to by competitors. This was recognised in the leading case of *R (Hestview) v Snaresbrook Crown Court* in which Hooper J. stated (para 65):

Likewise, if an application is, in effect, an application for the transfer of a licence from one premises to another close by, with some increase in the size of the customer area, then an authority might well conclude that the grant would not be inexpedient..."

It is hoped that licensing authorities will wish to endorse and support this natural progress and improvement in the industry. It is requested that the policy positively encourage, or at least state that the authority will give sympathetic consideration to, re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public.

Enforcement

It is requested that the policy includes wording along the following lines:

"The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise."

Other Comments

At paragraph 7.1 and 7.4 there appear to be references to relating back to Licensing Policy rather than the Gambling Act 2005. Specific references are made to "cultural benefits" and "entertainment" respectively.

In relation to paragraph 11.15 on page 11 we would be grateful if it could be noted that many betting offices are located near schools or in residential areas but under 18's are not permitted on the premises. Equally in relation to vulnerable persons most bookmakers operate extremely effective self exclusion policies. We would therefore suggest that location should not be a factor when considering a betting office application.

Consultation of ABB

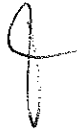
Finally, we would respectfully ask that your authority notify the ABB of any further consultations to be conducted by you, and that you favour the ABB with a hard and electronic copy of your final policy. This will enable the ABB to establish a bank of policies for the benefit of its members, alert its members to any developments and enable greater liaison and consistency to occur. The relevant contact details are:

Angela Ruggeri
ABB
Regency House
1-4 Warwick Street
London W1B 5LT

angelaruggeri@abb.uk.com

Please do not hesitate to contact us should you wish to discuss any of the contents of this letter.

Yours faithfully

A handwritten signature, possibly the letter 'J', written in black ink.

Howard Bee

From: Richard Silver [R.Silver@gamblingcommission.gov.uk]
Sent: 13 October 2006 16:17
To: Licensing
Subject: Statement of Gambling Policy - Consultation

The Gambling Commission has reviewed your authority's draft statement of principles for the Gambling Act 2005, as part of the consultation process. The only amendment we would like to propose is to amend paragraph 11.26, which currently reads "...such a person would normally need to hold a licence from the Gambling Industry Authority...". This sentence should read "...a licence from the Security Industry Authority...".

There are no further comments at this time.

Many thanks,

Richard Silver
Policy Development Officer
Tel: 0121 230 6543
Gambling Commission

This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system.

This email has been scanned for all viruses by the MessageLabs Email Security System. For more information on a proactive email security service working around the clock, around the globe, visit <http://www.messagelabs.com>

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>

Howard Bee

From: Richard Silver [R.Silver@gamblingcommission.gov.uk]
Sent: 24 July 2006 11:52
To: Howard Bee
Subject: Gambling Act 2005 Draft Statement of Principles - Consultation

Dear Howard,

This email is just to confirm that the Gambling Commission has received your Licensing Authority's draft Statement of Principles. We will be reviewing the Statement and will feedback with any comments in due course.

Best regards,

Richard Silver
Policy Development Officer

Gambling Commission

Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 1103
Fax: 0121 233 1096

This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system.

This email has been scanned for all viruses by the MessageLabs Email Security System. For more information on a proactive email security service working around the clock, around the globe, visit <http://www.messagelabs.com>

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>

President
Lord McIntosh

Vice Presidents
Bill Galston OBE
Sir Nevill Macready BT CBE

Chairman
Anthony Jennens

Chief Executive
Geoffrey Godbold OBE TD DL

Trustees
David Banks
Lady Hilary Burnham
Professor Peter Collins
Sir Geoffrey De Deney
Lord Richard Faulkner
Susanna Fitzgerald QC
Lady Carolyn Trethowan JP
Ian McRobbie – Hon. Treasurer

H. Bee.



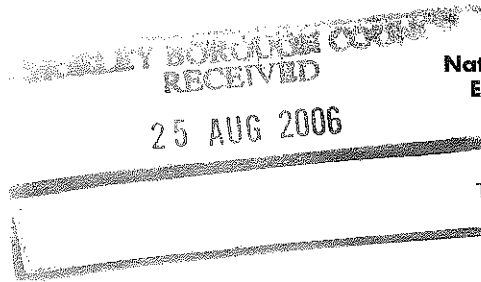
GAMCARE

**National Association for Gambling Care
Educational Resources and Training**

2/3 Baden Place
Crosby Row, London SE1 1YW
Tel: 020 7378 5200 Fax: 020 7378 5233
e-mail: info@gamcare.org.uk
www.gamcare.org.uk

Helpline: 0845 6000 133

23rd August 2006



Dear Sir or Madam

Thank you for your Draft on the Gambling Principles from your Authority. As you will understand we received one from all the authorities in the process of putting together their Principles and future Policy.

I found various differences in all, however not too many discrepancies for concern. I have however put together a separate list of inclusions, which from GamCare's viewpoint we would like included either in the policy or as part of the Licensing conditions.

I have had to read quite a few drafts, as already explained so please forgive me if I repeat anything already included.

All local authorities must now recognise that they should have a "Duty of Care" and become "Corporate Parents" assisting the residents of their authority with gambling addictions. Gambling is a much hidden form of addiction with little recognition.

Many authorities have now set up programs for Drug and Alcohol addictions, GamCare feel there is a great benefit of a program of problem gambling and possibly Debt Management counselling, to run in conjunction.

GamCare, I must emphasise, is a Gambling Neutral charity; we also recognise gaming is a very entertaining form of relaxation.

I would be grateful for the opportunity visit to your authority, and meet with all interested parties explaining in more detail how we may be of assistance to you, and the way we look for support and raise awareness about problem gambling.

Yours sincerely

Alan Faulkner
GamCare Partners Manager

- 1 The sale and distribution of Controlled drugs and the laundering of the proceeds of drugs to support gambling.
- 2 Prostitution to feed gambling needs
- 3 Any unlawful gaming, gambling, and betting
- 4 All leaflets giving assistance to problem gambling clearly displayed in prominent areas such as toilets for example where they will be more discreet. This will give certain anonymity.
- 5 Self exclusion forms available.
- 6 Operator must have a regard to best practice issued by organisations that represent the interests of vulnerable people.
- 7 On machines such as F.O.B.T,S odds being clearly displayed.
- 8 All A.T.M or cash terminals to be separate from gaming machines so that clients will have to leave the for more funds if so required. They should also display stickers with GamCare Helpline information positioned prominently on machine.
- 9 Social responsibility must be adhered to at all times and mentioned at all times when reasonable.
- 10 It has been mentioned in the Principles however it is so important clear visible signs of age restriction are clearly displayed in gaming and betting establishments, also entrances to gambling and betting areas are well supervised and identification verified.
- 11 Posters displayed suggesting " Stay in Control" of your gambling with details of GamCare telephone number and website.
- 12 Compulsory non-gambling areas or "Chill out Rooms" in all Casinos [this is only relevant if you are having a casino in your authority.
- 13 Please ensure that fruit machines are not situated in Mini-Cab offices or Takeaways or other unlicensed premises where children may have access to them.

Thank you for your assistance

Howard Bee

From: Judith Iddon
Sent: 24 August 2006 15:12
To: Howard Bee
Cc: Sonia Charles-Cross
Subject: GAMBLING ACT 2005

Importance: High

Howard

On 21 July you forwarded to Jane Meek a copy of the draft Statement of Principles document re the above for comments. Staff in the Development and Regeneration Unit have been consulted and there are no comments.

Thanks

Judith

Judith Iddon
Office Support Assistant
Chorley Council
DD: 01257 515276
E-MAIL: judith.iddon@chorley.gov.uk



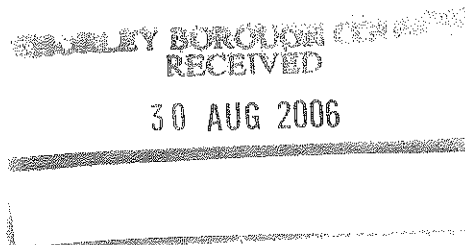
Market Towers
1 Nine Elms Lane
London
SW8 5NQ
telephone: 020 7627 9191
facsimile: 020 7627 9123
enquiries@beerandpub.com
www.beerandpub.com

North of England Regional Secretary
Lee Le Clercq MA

Rowan House
Fairways Court
Darrington
West Yorkshire
WF8 3DH

Tel/Fax: 019777 99 100

Head of Licensing
Chorley Borough Council
Town Hall
Market Street
Chorley
Lancashire
PR7 1DP



28 August 2006

Dear Sir/Madam,

GAMBLING ACT 2005 – DRAFT STATEMENT OF LICENSING POLICY

Thank you for providing this Association with the opportunity to comment on your draft policy.

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Chorley area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies. Further information is available on our website at www.beerandpub.com.

This response is also supported by BII, the professional body for the licensed retail sector, the Association of Licensed Multiple Retailers (ALMR), which represents the interests of smaller independent companies within licensed retailing and the Federation of Licensed Victuallers Association (FLVA) which represents self-employed licensees in England.

Notification or Application? Para 22.1 rightly explains that there is an automatic entitlement for 2 machines with the licensee simply required to notify the local authority. However, the next paragraph, 22.2, speaks of applications. The earlier paragraph stipulates that the notification must come from the 'premises licence holder' and that notification would only be made to the LA in which the premises are located. We believe therefore that paragraph 22.2 serves no purpose but to confuse and should not be included in the final policy.

The protection of children and vulnerable persons

We would like to take this opportunity to emphasise that pubs have had amusement with prize machines on their premises for many years. The BBPA has been pressing for legislation prohibiting under 18s from playing all cash machines (ACMs) since before the introduction of our Code of Practice on Minimum Age of Players, and we therefore very much welcome the restriction now contained in the new Gambling Act. The Association first introduced its Code of Practice in 1998, and has kept it under regular review since then. As a result of the Code, which is supported by other trade bodies including the ALMR, BII, FLVA and BACTA, ACMs coming on to the market include the "No Under 18s to Play" prohibition notice in the front of the machine. The inclusion of this notice has been achieved at the instigation of the Association in co-operation with machine suppliers.

BBPA member company training schemes also reinforce the management of the machines to ensure the minimum age requirement is complied with, for example by requesting recognised ID such as a PASS accredited proof of age card, driving licence or passport where there is doubt that the player is 18 years of age or over.

Grant of additional permits

While there is no actual requirement under the Gambling Act 2005 for machines to be sited in the bar, we believe that supervision of machines is very important and this is again reinforced by our Code of Practice and staff training. Under the new regime, when operators apply for additional machine permits and they are complying with the Gambling Commission Code of Practice (which will of course replace the BBPA Code), there is no reason why these should not be granted. It would be helpful if the Statement of Principles could reflect this.

Application procedures for more than two machines

The Association would welcome the inclusion in the policy of an outline of the application procedures for permits for more than two machines. We understand that some councils are taking the view that they will grant up to four machine permits without the need for a hearing. We support such an approach in the interests of reduced administration and bureaucracy for both Councils and applicants and would encourage you to consider this possibility.

Both the BBPA and LACORS have been concerned about the lack of a generic application form for permits. We understand that LACORS are now working on a standard application form for permits which could be used by Councils and applicants. It is obviously in the interests of businesses and local authorities to have such a form. We fully support this approach and hope you will adopt the LACORS form once it is produced.

Transitional arrangements

As the implementation date of 1st September 2007 approaches, it is likely that the Council will receive increasing numbers of enquiries from alcohol licensed premises wanting to find out what will happen to their existing machine permissions. It would therefore be helpful if some reference to transitional arrangements could be included either in the policy or in the form of separate guidance.

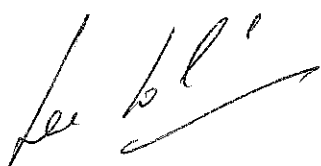
We appreciate that these arrangements will not be absolutely clear until the regulations have been finalised, but it is our understanding (based on the DCMS Transitional Arrangements consultation)

that pubs will be automatically entitled to provide the same number of machines as they are currently permitted to provide. This provision is not subject to approval by the licensing authority and their existing permissions should be automatically transferred to the new legislative framework.

After this, if it becomes evident that there is a problem with the premises, the licensing authority has the power to remove the permission or to reduce the number of machines permitted, as stated in the draft policy.

We trust that these comments are helpful and that they will be taken into account in the final version of the policy. The BBPA is committed to ensuring a smooth transition to the operation of the new gambling regime and looks forward to working with you to achieve that objective.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lee Le Clercq', with a long horizontal flourish extending to the right.

Lee Le Clercq

Howard Bee

From: Linda Malcolm [LindaM@bacta.org.uk]
Sent: 06 October 2006 15:25
To: Leslie MacLeod-Miller
Cc: Linda Malcolm
Subject: BACTA RESPONSE TO DRAFT LICENSING POLICIES

6th October 2006

Dear Local Authority

BACTA RESPONSE TO DRAFT LICENSING POLICIES

On behalf of BACTA (British Amusement Catering Trades Association) we are pleased to have an opportunity to comment upon your draft Gambling Act 2005 licensing policy statement.

We realise that it is extremely difficult to comment in a meaningful way regarding the manner in which local authorities will fulfil their duties under the Act because fundamental instruments of regulation which directly impact upon the regulation of gaming machines have yet to be finalised.

1. Mandatory and default conditions and Codes of Practice

In particular the mandatory and default conditions which will apply to premises licences are currently under consultation. In addition operators licence conditions and codes of practice have yet to be finalised and indeed are still at an early stage of consultation with the Gambling Commission. The codes of practice will address the manner in which facilities for gambling are provided (whether by the holder of a licence under the Act, or by another person). In particular Section 24 of the Act provides that the codes will describe arrangements that should be made by a person providing facilities for gambling for the purposes of – (a) ensuring that gambling is conducted in a fair and open way, (b) protecting children and other vulnerable persons from being harmed or exploited by gambling and (c) making assistance to persons who are or may be affected by problems relating to gambling. Social responsibility provisions of these codes will become licence conditions, the breach of which can result in heavy fines or imprisonment.

The gaming machine industry has been operating responsibly for many years under voluntary codes of practice which were developed in conjunction with the Gaming Board. BACTA is now working with the Gambling Commission to develop the mandatory codes which will continue to regulate the industry.

2. Background to deregulation / risk assessment / existing industry well regulated/grandfather rights

It should be recalled that the Gambling Act 2005 was introduced after a thorough investigation of the social impact of the UK gambling industry resulted in the Budd Report and the Government's response in A Safe Bet for Success. Those reports concluded that the UK gambling industry had a worldwide reputation for probity and responsible gambling and should therefore be the subject of deregulation which decreased bureaucracy. Indeed the Government noted in the Risk Assessment which accompanied the Act that "the current system of regulation has worked well, but, because of its age, does not address effectively the risks associated with innovations such as internet gambling". Through the passage of the Bill the Minister assured the industry that current entitlements of those operating gaming machines would be automatically preserved by converting them into new licences under the Act. The industry is currently working with the DCMS and the Gambling Commission to ensure that these grandfather rights are honoured. Regulation under the Gambling Act is to reflect restrictions being placed upon gambling facilities only where there is a real regulatory need after consideration of the evidence in the light of the precautionary principle.

The Government review of the risk base for premises currently operating under the 1968 Act was set forth in the RIA referred to above. Assessments must be evidence based and restrictions imposed only where there is evidence of a real regulatory need

3. Local authority discretion

The exercise of local authority's discretion is an essential part of regulation under the Act and the principles that are to be applied are to be viewed against the duty of the licensing authority under Section 153 which is to "aim to permit the use of premises for gambling".

4. Duplication to be avoided / BACTA to respond when more is detail in place

It is BACTA's intention to engage once again with local authorities when the essential elements of regulation have been more fully developed and is eager to provide assistance to the local authorities in developing regulation that reflects the five principles of Better Regulation. Clearly in the absence of clarity regarding the outstanding aspects of regulation it is highly likely that current proposals by local authorities will unnecessarily duplicate regulation emanating from the Commission which will necessitate adjustment in due course.

5. Interested parties

It is noted that Gambling Commission Guidance states that 'interested parties' includes trade associations and although BACTA is not of itself an interested person under the terms of the Gambling Act 2005 it does represent, through its members, parties who live sufficiently close to premises to be affected by activities being applied for.

6. General principles

Proximity / location

The reference to proximity of premises to schools, vulnerable adult centres or to residential areas with high concentration of families with children must be considered in the light of evidence that such proximity would actually cause a breach of the licensing objectives. Unless there is evidence that the regulation of gaming facilities is insufficient under the Act, taking into consideration licence conditions and codes of practice, it would not be appropriate for a licensing authority to take action based upon proximity alone. A decision may only be taken based upon a reasonable analysis of evidence and

therefore mere concern is insufficient ground for the refusal of an application or the imposition of conditions. It must be noted that no action should be taken by a local authority in contravention of the Minister's assurances regarding grandfather rights referred to above or contrary to a licensing authority's duty to permit gambling.

7. Conditions

It should be noted that conditions remain under discussion with DCMS and the Commission. Conditions must not duplicate protection which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be:

- identification of which of the Licensing Objectives is threatened;
- actual evidence of such threat;
- reasons why the proposed condition would be effective to address such threat, and
- reasons why such threat is not already addressed by existing regulation in the form of operators licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice.

8. Door supervision

It should be noted that it was not Parliament's intention to require door supervision other than in relation to casinos under Section 176. Therefore a condition for door supervision should not be imposed unless justified on the basis of the application of pre-requisites applying to the addition of conditions set out under the heading above.

9. Protection of children and other vulnerable people / Category D machines

BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.

10. Definition of premises

Premises is defined by the Act as 'any place'. Historically the concept of a premises within a premises has operated without evidence of any difficulty. Indeed the RIA produced by the Government noted that current regulation had 'worked well'. Historical examples of a premises within a premises include piers, motorway service stations, etc. DCMS lawyers confirmed during the passage of the Bill that this concept of a premises within a premises would continue under the 2005 Act, subject, of course, to any conditions applicable to individual licences. It should be noted that Parliament provided that certain premises would permit direct access from areas licensed for family admission to those which are restricted to adults only. Of course the adult only areas are subject to conditions regarding protection of the three licensing objectives and there are severe penalties set out in Parts 3 and 4 of the Act for breach. The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access should be adopted specifically in relation to licensing FECs and regional casinos. Should there be evidence in the future that the licensing objectives are not upheld, the Secretary of State has the power to react through due Parliamentary process. While licensing authorities should take particular

care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly observed. It is clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent "drift". It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice.

11. Advertising

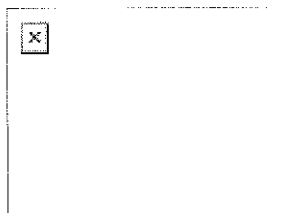
It should be noted that BACTA is currently in consultation with the Commission regarding the advertising code of practice, however, the basic principle to be applied is that one can advertise any service or facility which can legally be offered under the Act. Therefore, eg, children can be featured in an advertisement which is in respect of an FEC and it would not be an offence to advertise the availability of a Category D machine for play in respect of children in premises legally entitled offer such facilities.

12. (Alcohol) Licensed premises gaming machine permits (Schedule 13 paragraph 4(1))

Historically alcohol licensed premises such as pubs have frequently sited more than two gaming machines of Category C or D and there is no evidence that this has caused any issues which would give rise to concern by reference to the licensing objectives. Indeed the RIA referred to above noted that current regulation 'works well'. The Minister has guaranteed that those premises that currently site more than two machines will automatically be entitled to grandfather rights, ie a conversion of current entitlements into entitlements under the 2005 Act. This principle should be preserved by licensing authorities and machine numbers should only be reduced if there is evidence of a real regulatory need.

BACTA would be pleased to discuss any of the matters contained in this response or provide any assistance to ensure a smooth transition of a currently well regulated industry to regulation under the new Gambling Act 2005 in accordance with the Cabinet Office Principles of Better Regulation.

Yours sincerely



Leslie MacLeod-Miller
General Counsel
BACTA

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>

The information transmitted in this message is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you receive this message in error, please inform the sender and delete the material from any computer.

09/10/2006

Howard Bee

From: Hoghton Parish [hoghtonparish@talktalk.net]
Sent: 24 September 2006 14:59
To: Licensing
Subject: Gambling Act 2006

Dear Mr Bee

Thank you for your letter about the Borough Council's Role in the implementation of the provisions of the Act.

Having read the Statement of Principles` the Parish Council considers that Parish Council should be consulted on the licensing of premises in their area.

yours sincerely

Tony Harkness

Clerk

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>

Elizabeth Riley

From: brindleparish [brindleparish@talktalk.net]
Sent: 12 August 2006 14:37
To: Licensing
Subject: Gambling Act 2005

Dear Mr Bee

Thank you for your letter about the Borough Council's Role in the implementation of the provisions of the Act.

Having read the Statement of Principles` the Parish Council considers that Parish Council should be consulted on the licensing of premises in their area.

yours sincerely

Tony Harkness

Clerk

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>
