

Proposed Changes to Statement of Principles (Gambling Policy)

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Purpose of the Report

To inform members of the consultation responses received in respect of the draft Statement of Principles (Gambling Policy) and request the draft Statement of Principles shown in Appendix One is adopted subject to the proposed amendments.

Public Interest

The Gambling Act 2005 - (the Act) places a duty on the Licensing Authority to produce a Statement of Principles. (This may also be referred to as the "Gambling Policy"). Licensing Authorities are required to review the policy document every three years and to consult on this document.

Recommendations

That Council:-

- (1) agrees the body to fulfil the Responsible Authority role to advise the Licensing Authority on Protecting Children from Harm is changed to Somerset Local Safeguarding Children Board
- (2) agree the revised draft Statement of Principles under the Gambling Act 2005 and the suggested amendments
- (3) authorise the Licensing Manager to publish the amended Statement of Principles and any notices required in accordance with the provision of the Gambling Act 2005
- (4) delegate the power to make any minor amendments to the Statement of Principles to the Licensing Manager in consultation with the Assistant Director – Environment

Background

The Gambling Act 2005 gives Licensing Authorities a number of important functions in relation to gambling. These functions include:

- licensing premises for gambling activities;
- considering notices given for the temporary use of premises for gambling;
- granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulating gaming and gaming machines in alcohol licensed premises;
- granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks; and
- registration of small societies' lotteries.

In administering these functions, the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives, namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- Ensuring that gambling is conducted in a fair and open way,
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In South Somerset, there are currently 380 authorisations issued by the Council; the table below shows a breakdown of the different types.

| Premises Licence | Club Permits | Alcohol Licensed Premises Permit | Alcohol Licensed Premises Notification | Small Society Lottery Registrations | Family Entertainment Centre Permit |
|-------------------------|---|--|--|--|---|
| 12 x Betting Shops | 19 x Club Machine Permits (up to 3 Gaming Machines Categories B3A, B4, C or D) | 9 (3 or more Category C or D gaming machines) | 111 (Up to 2 Category C or D gaming machines) | 196 | 1 |
| 1 x Track | 1 x Club Gaming Permit | | | | |
| 1 x Bingo | | | | | |

Consultation

The consultation period on the draft Statement of Principles commenced on 14 August and ceased 09 October 2015. The Gambling Act 2005¹ requires that we consult one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

To ensure that an extensive consultation was carried out, 106 organisations and individuals comprising of Responsible Authorities, premises licence and permit holders, schools, town and parish councils were directly consulted (mainly by email); it was also advertised on our website and at the Council's main office at Brympton Way, Yeovil. A copy of the draft policy was sent to Chard, Langport, Wincanton and Yeovil libraries to represent each of the four areas covered by the Council. Six replies were received; one reply advised that "it [the draft SOP] looks fine" and the remaining five replies contain points of representation reproduced in Appendix Two together with comments. Legal advice was sought from a prominent senior barrister who is an appointed Queen's Counsel on the replies to the consultation.

¹ S349 Gambling Act 2005

During the consultation the Somerset Local Safeguarding Children Board consented to become the Responsible Authority to fulfil the role of the body which is competent to advise the Council about the protection of children from harm. Should members agree to this change, the board will be designated in writing for this purpose².

Proposed Amendments

The table below shows paragraphs that should be amended either to omit out of date references and typo's or to provide more clarity.

| Paragraph/Page Number | |
|--------------------------------------|---|
| Paragraph 1.4 | <p>Replace paragraph to replicate wording of s153 with:</p> <p>In exercising their functions under the Act the licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it —</p> <p>(a) in accordance with any relevant code of practice under section 24, .</p> <p>(b) in accordance with any relevant guidance issued by the Commission under section 25,</p> <p>(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and .</p> <p>(d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).</p> |
| Paragraphs 1.19, 1.20, 1.21 and 2.60 | Remove paragraphs in their entirety as BACTA Codes have now been confirmed as no longer being current. |
| Paragraph 1.5 | Similarly remove the last sentence “Where there is reference to BACTA’s voluntary codes, the Licensing Authority recognises that these are BACTA’s current codes on social responsibility for the gaming machines sector and merely recommends adoption of these voluntary codes.” |
| Page 38 | Remove reference to BACTA from Glossary |
| Paragraph 2.12 | <p>Remove reference to primary activity as shortly to become defunct to read:</p> <p>The Gambling Commission has issued Codes of Practice relating to Bingo premises and the Licensing Authority expects all applicants to comply with these codes. The Licensing Authority shall determine Bingo Premises Licence applications in accordance with the Guidance issued by the Gambling Commission.</p> |
| Page 22 | Insert new heading after paragraph 2.27 “Gaming Centres” |

² S157(h) Gambling Act 2005.

| Paragraph/Page Number | |
|---|---|
| Paragraphs 2.28 – 2.33 Re-order of these paragraphs for clarity as criteria also applies to LFEC's and UFEC's | 2.28 becomes 2.32; 2.29 becomes 2.33; 2.30 becomes 2.2; 2.31 becomes 2.29; 2.32 becomes 2.30; 2.33 becomes 2.31 |
| Paragraph 2.18 | Remove reference to primary activity as shortly to become defunct to read: The Licensing Authority shall determine Betting Premises Licence applications in accordance with the Guidance issued by the Gambling Commission. |
| Paragraph 2.29 (now 2.33) | Remove last sentence from paragraph to read: "Where the Adult Gaming Centre is situated in a complex such as a shopping centre or service station, the Licensing Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access." |
| Paragraph 2.45 | Remove paragraph as primary activity shortly to become defunct. The Licensing Authority supports the Gambling Commission's view that an operator should provide the primary activity specifically authorised by its Premises Licence in order to limit the number of gaming machines available for use on the premises. As such, the Licensing Authority shall expect applicants to comply with the Gambling Commission's Guidance on primary activity |
| Paragraph 2.46 | Typo error replace 'cited' with 'sited' |
| Paragraph 3.5 | Delete last 3 factors (top of page 29) as they have been duplicated within the list. |

Should a Statement of Principles relating to gambling not be adopted, it would leave South Somerset District Council in a position of being unable to undertake its statutory responsibilities and functions under the Act.

Under s17 of the Crime and Disorder Act 1998 the Council also has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

Financial Implications

There are no additional financial implications as a result of the proposals contained within this report except for the cost of the consultation.

Council Plan Implications

The issues raised in this report impact upon the following objective as identified with the Council's Corporate Plan 2012-2015:

- Focus One – Jobs. Strong economy which has low employment and thriving businesses

- Focus Four – Health & Communities
- Overall Council Ambitions – To strive to deliver an improving life for all. Well managed, cost effective services valued by our residents.

Carbon Emissions and Climate Change Implications

None

Equality and Diversity Implications

Initial assessment under EIA stage one carried out on 02 December 2015 indicating no further action required.

Privacy Impact Assessment

The identity of the respondents to the consultation has been removed throughout the table of consultation responses to preserve anonymity.

Background Papers

- *Gambling Act 2005*
- *Gambling Commission Guidance to Licensing Authorities 4th Edition Published September 2012 as amended 2013*
- *Gambling Commission Guidance to Licensing Authorities 5th Edition published September 2015*
- *Guidance on Undertaking Local Gambling Risk Assessments – City of Westminster*

Appendix Two – Table of Consultation Responses

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
|---------------|---|-----------------|--|
| 1.23 | "The proposed location of gambling premises may be taken into account when assessing the application. The Council is asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location" | None | If a paragraph does not apply to an organisation, then it will not be taken into account |
| 1.23 | Whilst it is acknowledged that each case will be judged on its merits, the inference is that premises located near schools, residential areas & church premises are at risk of causing harm to the licensing objectives. [We] know no evidence that children coming from schools are gaining access to betting offices. [Our] general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by [us] is adequate to ensure that under—age gambling does not occur in [our] premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems. | None | If evidence is that these factors have no bearing, they will not be taken into account. |
| 1.23 | The SOP indicates that when considering the location of proposed gambling facilities, the licensing authority will consider the proximity of proposed premises to local schools, centres for those with gambling problems, centres for or used by vulnerable and young persons, premises to residential areas where there is a high concentration of children and young people or where high levels of deprivation exist, | None | If evidence is that these factors have no bearing, they will not be taken into account |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
|---------------|---|-----------------|---|
| | <p>places of worship and areas of known high criminal activity. The Licensing Authority is reminded that betting offices have been regulated for over 50 years. Betting offices are always situated in areas with high footfall or which are densely populated and are therefore always in areas where there are children and in certain cases in areas very close to schools. Over the last 50 years, operators have developed policies and procedures to ensure that those who should not bet do not do so. These policies and procedures ensure that instances of persons who should not bet being able to do so are minimal. The proximity of a new premise to local schools or premises that deal with persons with gambling problems will always be part of the local area risk assessment from 6th April 2016.</p> <p>The reference to high levels of deprivation and places of worship should be deleted. The Gambling Commission guidance is clear that moral or ethical objections to gambling cannot be considered when considering an application. A requirement to consider high levels of deprivation can only be relevant if the licensing authority has predetermined that persons in areas of deprivation are automatically vulnerable. We respectfully submit that these references should be removed from the policy.</p> | | |
| 1.23 + 1.34 | [Our] shops already operate strict age restrictions and we do not promote betting or gambling in our shop windows | None | If evidence is that these factors have no bearing, they will not be taken into account. |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | <p>attractive to young children or vulnerable adults.</p> <p>We accept the importance of the premises design to mitigate risk, which is one of the reasons we install CCTV cameras in specific places to monitor activity (for example at the entrance and exit of the shop) and it is our policy, unless physically impossible, to locate machines in line of sight of our cashiers. Where this is not possible, we implement alternative measures to ensure that shop team are in a position to monitor the activity in the machines area of the shop.</p> <p>Security and health and safety risk assessments already detail control measures in this area which are effective in tackling these issues. Similarly, we do not accept the premise that the proximity of young people to betting shops should be regarded as an additional risk. We have strict policies and procedures in place to ensure that only those who are eligible to bet can do so. We have also invested in colleague training for the Challenge 21 policy, whereby any new customer who does not look old enough to bet is asked to provide identification. If official age verification is not provided, the customer will be asked to leave the premises. [We] also has a Primary Authority Partnership for age-restricted products.</p> <p>Our policies regarding compliance with the licensing objectives are supported by thorough staff induction training programmes followed by annual refresher training in the</p> | | |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | higher risk areas such as the prevention of underage gambling (Think 21) and tested through internal audit processes and, in the case of Think 21, test purchasing conducted by a third party service provider and the fact that those results are and other associated information is shared with the Gambling Commission. | | |
| 1.25 | At paragraph 1.25, there is a statement that an applicant must demonstrate how it will “promote” the licensing objectives. The authority is reminded that within the Gambling Act 2005, the authority itself must “have regard” to the licensing objectives whilst applications must be “reasonably consistent” with the licensing objectives. There is no requirement on either the licensing authority or an applicant to promote the licensing objectives and therefore this should be amended. | Amend paragraph 1.25 to read- In all cases, however, the Licensing Authority will determine each application on its own merit and consider the type of gambling proposed. <i>Any evidence provided by the applicant, whether in its risk assessment or otherwise</i> the Licensing Authority shall take this into account when determining such applications. | Whilst it is true that the applicant does not have to provide an operating schedule stating how the objectives are to be promoted, it does have to provide a risk assessment explaining the control measures. Paragraph could also be left as originally drafted as the sentence complained about started with “If” which did not imply a mandatory condition. |
| 1.29 | [This paragraph] refers to instances of “disorder and nuisance”, there is no licensing objective under the Gambling Act 2005 that requires the prevention of public nuisance. Instead nuisance is left to other regulatory regimes. The Gambling Commission is clear in its Guidance that nuisance is not an issue and that disorder is intended to mean activity that is more serious and disruptive than mere nuisance. References, therefore, to large pay our machines, levels of noise from public address systems and a suggestion that conditions would govern opening hours for betting shops | Removal of the word nuisance throughout this paragraph and slight wording changes to read: The Licensing Authority recognises that disorder may be focused on premises and therefore expects an applicant to demonstrate an understanding of possible crime or disorder and to take such controls as are necessary to prevent it. Examples may include thought given to the way that | It is not proposed that the paragraph be deleted as it is still relevant for crime or disorder |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | <p>in a residential areas, are not, therefore within the scheme of the Act. This paragraph should be deleted.</p> | <p>gambling is conducted on the premises, company policy on prevention of crime or disorder, siting of large pay out machines. Consideration, where relevant, will be given to the placing of appropriate conditions on the licence governing opening hours for betting shops in residential areas which may include the use of Door Supervisors. Where the Licensing Authority imposes a Door Supervision condition, if the supervisor is required by the Private Security Industry Act 2001 to hold a licence under that Act, the requirement shall be a condition of the licence.</p> | |
| 1.28 | <p>Paragraph 1.28 indicates that in certain circumstances the licensing authority may consider appropriate conditions to be attached to the licence. The policy should be clear that conditions will only be imposed where there is evidence of a risk to the licensing objectives that is not adequately dealt with by the existing mandatory and default conditions. The system must be evidence based.</p> | <p>Add test to paragraph 1.28</p> | <p>It is wrongly submitted that conditions may only be applied in exceptional circumstances, and on the basis of “evidence”. The test is set out paragraph 9.31 of the Guidance to Licensing Authorities 5th Edition (which is replicated below) and there is no specific requirement of “evidence”. It is merely the material before the authority should enable the inference to be drawn that the test in the Guidance is met.</p> <p>“Conditions imposed by the licensing authority must be proportionate to the circumstances which</p> |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | | | <p>they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:</p> <ul style="list-style-type: none"> • relevant to the need to make the proposed building suitable as a gambling facility • directly related to the premises (including the locality and any identified local risks) and the type of licence applied for • fairly and reasonably related to the scale and type of premises • reasonable in all other respects.” |
| 1.32 | <p>Paragraph 1.32 outlines the policy with regard to the licensing objective of ensuring gambling is conducted in a fair and open way. The Gambling Commission Guidance indicates that “generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business and therefore subject to the operating licence or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence.” This paragraph seeks therefore to trespass upon matters dealt with by the licensing authority.</p> | None | <p>It is wrong to say the Licensing Authority may not say anything about fairness and openness. There is no clear bright line between the Commission and the Authority. It is entitled to set out its expectations as to how the fairness requirement is to be promoted at premises level.</p> |
| 1.32 | <p>As a responsible operator we already display comprehensive rules on fair play in all of our shops which covers the following areas – and many more which are not listed;</p> | None | <p>It is not expected that all establishments will display the probability of winning / losing as the general principles section in the SOP is written for all types</p> |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | <ul style="list-style-type: none"> • Minimum age • Conduct • Responsible gambling • Fraud and error • Taking a bet • Paying for bets • Prices (including changes, starting prices, each way bets) • Contact details <p>It would be almost impossible to display the probability of winning / losing as this will vary depending on each bet that is placed on each race / sporting event / contest. Even if this could be published, the number of entrants often changes at the last minute due to non-runners for a number of reasons. In horse racing this could be because the runners may become lame, if the ground or going suddenly changes or it is reported wrongly or if runners are withdrawn because it was stated they would be equipped with blinkers (or other aids) and are found not to be when they enter the stalls.”</p> | | <p>authorisations that the Council are empowered to deal with and clearly states that “examples may include ...”; each case would be based on its own merits.</p> |
| 1.32 | <p>[Written Rules]’... we are concerned at the suggestion that font size must 11 or above. The feedback we have received from the Gambling Commission is that our information on fair play must be as comprehensive as possible. Therefore we would encourage a balanced approach to this, accepting that in order to provide customers with as much information as possible which still fits within the parameters of our shop space, the font size may need to be smaller than is currently suggested in this consultation. It should also be noted that as</p> | <p>Add “where practicable”</p> <p>... The Licensing Authority expects that where written rules are provided that they are of a font not less than 11 where practicable and further that ...</p> | <p>The SOP sets out an expectation that the written rules will be in font 11 or above; it should not be read as an immutable requirement. Whilst carrying out inspections, I have found the font size to be quite small – I believe font 8 is used and have requested that a larger font is used as it does in my opinion disadvantage those that are visually impaired (although I was assured that staff members would advise if requested). The consultation response</p> |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | <p>a responsible operator we also publish our rules around fairplay on our website which are accessible via a computer, tablet or mobile phone.</p> <p>It is crucial that any additional conditions around fair play are proportionate and achievable for operators and take into account the existing material which is already available to customers.”</p> | | <p>advises that rules are also accessible via a computer, tablet or mobile phone, however not everyone has access to them, which could include some of the more vulnerable adults. I have suggested to organisations that if space is an issue, the rules, terms and conditions could be printed on several A4 pages which could be laminated and threaded through a hole at the top; this would then provide a document that is more in keeping with Equalities and anti-discrimination legislation.</p> |
| 1.32 | <p>A requirement that the font size of the rules goes beyond the licensing authority’s remit. Social Responsibility Code Provision 4.2.6 deals with the display of rules in off course betting. There is no need for the licensing authority to become involved with this unless there is evidence in a particular circumstance that would require it to do so.</p> | None | See comment immediately above. |
| 1.38 | <p>It [may be] worth including the requirement that generally there can be no direct access between different types of gambling premises.</p> | <p>Amend Paragraph to read:</p> <p>The Licensing Authority will pay particular attention to applications where access to the licensed premises is through another premises and will consider whether or not children can gain access (<i>generally there can be no direct access between different types of gambling premises</i>); where there is direct access, it will take into</p> | |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | | <p><i>account</i> the compatibility of the two establishments and its ability to comply with requirements of the Gambling Act. The Licensing Authority will also consider whether the co-location of the licensed premises with other facilities will create an arrangement that is likely to be prohibited under the Act. In any event, the Licensing Authority expects access to all adult areas in licensed premises shall be monitored in accordance with any mandatory conditions and Gambling Commission Codes of Practice.</p> | |
| 1.28, 1.29 1.71 & 1.72 | <p>"The Council is asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles. In line with the Government's Better Regulation Agenda, and the stipulation by the Council on Page 34 that they will seek to avoid duplication with other regulatory regimes, the Council should not impose any further provisions relating to door supervisors."</p> | <p>None except to paragraph 1.29 concerning the removal of nuisance – see above.</p> | <p>Paragraphs are generic in nature, as there are different types of premises licences issued under the Gambling Act 2005 so if an organisation is already required to provide door staff, they will not be required to do so again. Further not all premises licence holders also have a premises licence issued under the Licensing Act 2003. The Licensing Committee may consider it appropriate to impose a condition relating the number of door supervisors required and/or for time(s) of the day that they are required to be present. Any conditions imposed by the Licensing Committee would be appropriate to the nature of the application</p> |
| 1.41 - 1.44; | "We welcome the focus on | None | Different local situations |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
|---------------|---|-----------------|--|
| 1.47 - 1.50 | <p>partnership working and that is one of the reasons we are a leading signatory to the 'ABB-LGA Framework for local partnerships on betting shops' which was published in January this year. We also have Primary Authority agreements with [X] Council and [X] Council which has resulted in greater clarity and consistency of regulation at a local level. In contrast, we are concerned that this guidance as currently drafted would lead to variations and inconsistencies which prove burdensome and costly for a business that operates across a multi-site estate in numerous different local authorities</p> | | <p>and issues will inevitably lead to different policies from Local Authorities and this is reflected in the Gambling Commission Guidance; the following are extracts from the Guidance:</p> <p>6.3 Statements of policy are likely to reflect differences in approach between different licensing authorities. The statement made by a seaside town licensing authority, which may see gambling businesses as an important part of its plans for growth and regeneration based on regular influx of visitors, may well be significantly different from that of an inner city authority, which may be more concerned with impact on the vulnerable. ...</p> <p>6.4 The Commission encourages licensing authorities to have a statement of policy that is genuinely reflective of local issues, local data, local risk and the expectations that a licensing authority has of operators who either currently offer gambling facilities or wish to do so in the future. The existence of a clear and robust statement of policy provides greater scope for licensing authorities to work in partnership with operators, other local businesses, communities, and responsible authorities to identify and</p> |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | | | to proactively mitigate local risks to the licensing objectives |
| 1.51 – 1.67 | "There is a clear, existing process in place for interested parties or responsible authorities to make representations and we would therefore caution against statements of theoretical risk without any evidence to support the argument." | <p>Amend paragraph 1.51 to read: Interested Parties can make representations about licence applications, or apply for a review of an existing licence. The Gambling Act 2005, defines interested parties as persons who:</p> <ul style="list-style-type: none"> • Live sufficiently close to premises to be likely to be affected by the authorised activities; • Have business interests that might be affected by the authorised activities; or • Represent persons in either of the above two groups. | <p>No further changes proposed as the Gambling Act at section 158 also states ...“ a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence, if in the opinion of the licensing authority which issues the licence or to which the application is made, the person ... (omitted part relates to list in third column (proposed change)</p> <p>The draft SOP sets out what factors we would take into consideration to help form an opinion on whether a person is an interested party or not as we are entitled to set out what factors we believe would be potentially relevant, further it also sets out that each case would be judged on its merit.</p> |
| 1.57 | Paragraph 1.57 correctly identifies that representations on the basis of demand and competition would not be relevant. This paragraph, however, seems to indicate that representations only on the basis of the licensing objectives would be considered relevant. The correct position is at paragraph 1.63 which states that the relevant representations must be relevant to the three licensing objectives, raise issues under the SOP, raise issues under the Gambling Commission's | None | The legal advice given is that it is not considered there is anything wrong with this paragraph. |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | Guidance or raise issues under the LCCP. Paragraph 1.57 needs to be amended to reflect the accurate position. | | |
| 1.68 – 1.70 | <p>Paragraphs 1.68 to 1.70 deal with conditions. The policy would be assisted by an acknowledgement that the starting point for any application is that the application will be granted without additional conditions, the robust mandatory and default conditions being sufficient to ensure operation that is reasonably consistent with the licensing objectives. The policy should further state that it is only where there is evidence in a particular case that the mandatory and default conditions need to be supplemented that additional conditions should be imposed.</p> | <p>Add text to sentence at paragraph 1.68 to read:</p> <p>Any conditions attached to a Premises Licence will <i>take account of any mandatory and default conditions</i>, be proportionate and will be:</p> <ul style="list-style-type: none"> • Relevant to the need to make the proposed building suitable as a gambling facility • Directly related to the premises and the type of licence applied for • Fairly and reasonably related to the scale and type of premises; and • Reasonable in all other respects | <p>The idea that there should be a starting point is not agreed with. The test for conditions is set out in paragraph 9.31 of the Guidance to Licensing Authorities 5th Edition (which is replicated above at paragraph 1.28). Whilst it is agreed that Licensing Authorities should take account of the mandatory and default conditions when considering whether further conditions are warranted, it is not agreed that “evidence” is needed in order to apply a condition.</p> |
| 1.68 – 1.71 | <p>[We] believe that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. [We are] concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.</p> <p>This would further increase variation across licensing authorities and create</p> | None | <p>A rational concern is sufficient basis for the imposition of a condition.</p> <p>Also see comments above relating to 1.41 - 1.44; 1.47 - 1.50</p> |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities. | | |
| 1.71 | The suggestion at paragraph 1.71 that conditions could be imposed if there are “concerns” needs to be amended. A concern would not be sufficient to impose a condition. There must be evidence to do so. | None | A rational concern is sufficient basis for the imposition of a condition. |
| 2.27 | "The Council should be aware that it may not be practical for racecourses to print examples of the Standard Rules of Betting (Tattersalls Rules) in their racecard or in a leaflet form. However, these will be displayed in line with the Premises Licence Mandatory and Default Conditions | None | If this is not practicable, it will not be taken into account as not expressed in a mandatory form |
| 2.53 | [We believe it is] worth reflecting the [Gambling Commission] guidance issued in the Local Authority Bulletin in October 2014 in that UFEC permits may only be granted in respect of a clearly designated area. In many cases we have seen permits granted in respect of say shopping centres as a whole which of course is not correct. I think the expectations from such operators are very good and clearly set out. | <p>Add sentence to paragraph 2.53 to read:</p> <p>Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.</p> <p><i>It is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the</i></p> | |

| Paragraph No: | Representation | Proposed Change | Reason(s) why representation rejected/ other comments |
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| | | <i>machines would be in a designated, enclosed area so as to comply with S238 of the Gambling Act 2005.</i> | |
| Part 3 generally and paragraphs 1.68 and 1.69 | <p>It is important to note that betting shops are often the victims of crime rather than a source of crime (burglaries, robberies etc). However, as a responsible business we would consider the existing levels of gambling and betting related crimes as well as the measures we can take to mitigate this risk before applying for a local licence. It is unclear and we would expect that other general levels of crime would not affect a licencing application.</p> <p>Instead, each case should be considered on its own merits and therefore we would caution against general statements that gambling premises should automatically face a higher burden of proof in these areas. Without any clear requirements in the revised licencing policy statements that additional licence conditions should be accompanied by robust evidence, this process could lead to unintended consequences and local shop closures and job losses.</p> | None | A rational concern is sufficient basis for the imposition of a condition. |
| Part 3 | It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles. | None | It is open to the licensing authority to set out in the SOP factors which are potentially relevant; whether they are relevant to the specific operator/operation/location is a matter for consideration in the individual case and each case is decided on its merits. Factors help to focus the mind, not |

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| | <p>This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.</p> <p>A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.</p> <p>We would also request that where a local area profile is produced by the licensing authority that 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.</p> | | <p>predetermine the outcome.</p> <p>Only the maps are shown in the appendix and they are placed there and not in the main body of the document because as new layers of information become available they can be updated without the full consultation process.</p> |
| 3.5 | <p>Part 3 of the policy deals with local area profiling. At paragraph 3.5 there is a list of factors that must be considered by applicants and operators when undertaking a risk assessment. This list needs to be amended. ... some of that which is to be considered is not relevant.</p> <p>The Social Responsibility Code Provision 10.1.1 requires that “licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and</p> | None | A Licensing Authority is entitled to set out potentially relevant factors. Whether they apply in individual cases will turn on the evidence. |

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| | <p>have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy." The requirement, therefore, is for the licensee to assess risks to the licensing objectives and for the licensing authority to identify matters relevant to the licensing objectives. It is accepted that issues such as educational facilities, gambling care providers and the proximity of schools will be relevant to a local area risk assessment but issues such as ethnicity, age, economic makeup and the proximity of pawnbrokers/payday loan businesses cannot be. Similarly issues of deprivation identified in the maps within Appendix E can only be relevant if the authority has predetermined that any person in that area of deprivation is automatically a vulnerable persons. In the circumstances, we respectfully submit that this list of criteria be amended to include only matters that are relevant.</p> | | |
| 3.5 – 3.7 | <p>It is important that any changes or additional conditions are evidence based and as a result, deemed to have a real impact on the ability of betting operators to uphold any or all of the three licensing conditions. Such a list of factors, as outlined in section 3.5 and 3.7, based on opinion rather than fact, and therefore open to interpretation in many different ways, could result in an inconsistent licencing regime.</p> | None | <p>A Licensing Authority is entitled to set out potentially relevant factors. Whether they apply in individual cases will turn on the evidence.</p> |

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| | <p>Operators already take certain factors into consideration to ensure compliance with the licensing objectives, both in relation to new applications and existing licensed premises, and therefore it should be, as it is now, a matter for the local operator to decide how this is determined and what should be included. This being the case, only local risks that are evidence based, would be included in the risk assessment. We would therefore caution against the inclusion of certain named categories which operators are prescribed to take into account by the local authority, including educational establishments and general levels of crime.</p> | | |
| 3.5 – 3.7 | <p>Within Section 3.0 (Local Area Profiling) where your Statement discusses the new risk assessment required, the policy again identifies a range of premises which by their inclusion, may suggest that applications near to such locations could be deemed high risk. Notably; schools, bus stops, supermarkets etc.</p> <p>[We] know of no evidence that the location of a licensed betting office within the proximity of the aforementioned causes harm to the licensing objectives. It involves a four-fold suggestion that:-</p> <ul style="list-style-type: none"> a) those using such facilities are inherently problem gamblers b) that having visited such facilities, users are more likely to visit a betting office than if they had not used such facilities c) that if they do, that they are more likely to engage in problem gambling | None | <p>A Licensing Authority is entitled to set out potentially relevant factors. Whether they apply in individual cases will turn on the evidence.</p> |

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| | <p>d) that the protective mechanisms arising from the Licence Conditions and Codes of Practice are insufficient to mitigate the risk.</p> <p>We do not believe that there is evidence for any of these propositions..</p> <p>The reason for [our] caution against making such perceptions, which we anticipate is similar to that of the other main bookmakers, is that it already operates systems which ensure that the licensing objectives are strongly promoted across its estate.</p> <p>For example:</p> <ul style="list-style-type: none"> <input type="checkbox"/> [We benefit from an operating licence granted by the national regulator, the Gambling Commission. Therefore, its corporate systems for the promotion of the licensing objectives have been approved by the Commission, which continues to exercise vigilance in this regard through inspections and examination of regulatory returns. <input type="checkbox"/> [We are] subject to the Licence Conditions and Codes of Practice, which are effectively the national code of operation to ensure that the licensing objectives are promoted. <input type="checkbox"/> It carries out health and safety risk assessments pursuant to its legal obligations. These assessments are shortly to be extended so that formal compliance assessments are conducted. <input type="checkbox"/> It conducts risk assessments in relation to Exposure to Violence, Aggression and Conflict (EVAC assessments). <input type="checkbox"/> It operates the assessment | | |

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| | <p>principles of the Safe Bet Alliance, the national code for safe premises. It was one of the architects of the code.</p> <ul style="list-style-type: none"> □ It operates the ABB's Code for Responsible Gambling, and again was one of the architects of that code. □ It operates an extensive compliance manual, upon which all staff members are trained. Copies are available for your inspection if required. □ It contributes to the Responsible Gambling Trust, which seems to promote responsible gambling who in-turn contribute to GamCare, the national problem gambling charity. <p>[Our] experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications from April 2016, [we] believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. In other words, there should be no requirement to list the locations that are currently stated (as there is no evidence that there is a link between such venues and a betting office causing harm to the gambling objectives), however notwithstanding this, such locations would automatically be included with the operators risk assessment submitted when the application is considered.</p> | | |

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| | <p>We do appreciate that this is a new requirement and from viewing over 100 different Council Statements, it is clear that there are numerous different ways of adapting a policy.</p> <p>We would caution against the council providing a long list of locations which must be risk assessed and instructions / templates for completion which is disproportionate to the very regulated business we already operate within.</p> | | |
| 3.6 – 3.10 | <p>With effect from 6th April 2016, under new Gambling Commission LCCP provisions - [Licence Conditions and Codes of Practice], operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.</p> <p>Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.</p> <p>[We] are concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In our view this should</p> | None | It is open to the licensing authority to set out in the SOP factors which are potentially relevant; whether they are relevant to the specific operator/operation/location is a matter for consideration in the individual case and each case is decided on its merits. Factors help to focus the mind, not predetermine the outcome. |

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| | <p>be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.</p> <p>Although our members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.</p> <p>[We] support the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. [We are] also committed to working pro-actively with local authorities to help drive the development of best practice in this area.</p> | | |
| 3.7 – 3.10 | <p>The lists at paragraph 3.7 and 3.10 relating to significant changes in local circumstances or the premises are too prescriptive. If the licensing authority is to define significant change then these definitions need to relate to whether or not the changes could have any effect upon the licensing objectives. Issues such as a new payday loan or pawnbrokers in the area or a new premise involving gambling activity are not relevant in this regard.</p> | None | <p>A Licensing Authority is entitled to set out potentially relevant factors. If evidence is that these factors have no bearing, they will not be taken into account.</p> |