

## Appendix 7

### Responses to the second consultation on proposed Gambling Act 2005 statement of principals

#### Response 1

**From:** John Richards

**Sent:** 13 December 2021 20:11

**To:** Rendell, John <J.Rendell@somersetwestandtaunton.gov.uk>

**Subject:** Re: FW: Consultation on proposed Gambling Act 2005 statement of licensing principals

Hi John

Have had a quick read and ONE paragraph stands out as an extreme restrictive trade practice and I believe unlawful.

In an open society the council should not impose restrictive trade practices.

I refer:-

The Council will also consider more favourably applications from members of BACTA, the trade association for the amusement and gaming industry in the UK, on account of their having to abide by [BACTA's Social Responsibility Charter and Code of Practice](#).

I do trust you understand that BACTA is a secular society made up of national amusement machine operators that does not, nor ever has, represented the "rank and file" of gaming machine industry. The majority of small operators refuse to join the organisation as it ONLY represents the views and wishes the national operators. There is plenty of evidence to this effect and for many years there is a separate operators association called "The independent operators association"

The part about abiding by their code is misleading, as ALL operators with a Gambling Commission operators license MUST comply with all the codes and regulations, otherwise their license is likely to be rebuked.

This paragraph needs to be removed for fairness and openness, otherwise it looks like the council is blackmailing people to join an organisation that does not represent them.

This paragraph covers this adequately

The current Licence Conditions and Codes of Practice (LCCP) published by the Gambling Commission specifies a social responsibility (SR) code. This code requires operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters referred to in this policy document.

Otherwise a reasonable and pretty standard document, BUT, the new clauses of a risk assessment SHOULD include a list/example of what you require because a "risk assessment" means different things to different people.

I hope that helps and my observations will be dealt with,

Your sincerely,  
John Richards  
Free Enterprise Games  
Licensed by the Gambling Commission for the supply and repair of gaming machines.

## Response 2

# GOSSCHALKS

BY EMAIL ONLY  
LICENSING SECTION  
SOMERSET WEST AND TAUNTON COUNCIL

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** rjt@gosschalks.co.uk  
**Our ref:** RJT / MJM / 123267.00001  
#GS4279170  
**Your ref:**  
**Date:** 22 December 2021

Dear Sirs,

### **Re: Gambling Act 2005 Statement of Principles for Gambling**

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

### **The Betting and Gaming Council**

The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

BGC members support 119,000 jobs and account for £4.5 billion to the Treasury annually in tax. Recent study also showed that BGC members contributed around £7.7 billion in gross value added to the UK economy in 2019. London's casinos alone contribute over £120 million to the tourism economy each year.

The gambling industry is integral to the survival of sport. Betting companies spend over £40 million a year on the English Football League (EFL) and its clubs. Horse racing, an industry estimated to be worth £3.5 billion a year to the UK economy and which generates 85,000 jobs receives over £350 million per annum through the Horse Racing Industry Levy, media rights and sponsorship. Darts and Snooker receive in excess of £10 million per annum which represents 90 % of all sponsorship revenue.

The BGC has four objectives. These are to –

- create a culture of safer gambling throughout the betting and gaming sector, with particular focus on young people and those who are vulnerable
- ensure future changes to the regulatory regime are considered, proportionate and balanced
- become respected as valuable, responsible, and engaged members of the communities in which its members operate
- safeguard and empower the customer as the key to a thriving UK betting and gaming industry

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

### **Betting and Gaming in the UK**

Betting and gaming is widely enjoyed in the UK. Around 30 million people participate in some sort of gambling, whether that is on the National Lottery, placing a bet in betting shops, playing in casinos or at bingo. The overwhelming majority of these people do so safely without reporting any problems.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that the number of betting offices (as of March 2020) was 7681. This is reducing every year and has fallen from a figure of 9137 in March 2014. Covid 19 had a devastating effect on the betting industry. The number of betting offices in June 2020 was down to 6461.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- In April 2019 a maximum stake of £2 was applied to the operation of fixed odds betting terminals
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable and possibly falling.

This consultation comes at a time when many BGC members with land-based premises are recovering from the devastating impact of the pandemic. Premises were closed for much of 2020 and throughout much of 2021. The casino sector, for example, was closed for over half of 2020 and for over half of 2021 (to date). The pandemic has put an enormous strain on the company balance sheets of casino operators.

## **Problem Gambling**

Problem gambling rates are static or possibly falling. The reported rate of ‘problem gambling’ (according to either the DSM-IV or the PGSI) was 0.8% of the adult population in 2015, in 2016 it was 0.7% and in 2018 it was 0.5% of the adult population.

Figures published by the Gambling Commission in October 2021 show that the rate of problem gambling in the year to September 2021 was 0.3%, having fallen from 0.6% the previous year. The moderate risk rate has also decreased significantly to 0.7% in the year to September 2021 compared to 1.2% in the year to September 2020.

Rates of ‘problem gambling’ in the UK are low by international standards – compared to France (1.3%), Germany (1.2%), Sweden (2.2%) and Italy (1.27%).

The raft of measures that have been put in place recently both by the industry (in terms of protecting players from gambling-related harm), the Gambling Commission and the Government (a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures and voluntary restrictions on advertising) have contributed to problem gambling rates now being lower than they were at the passage of the 2005 Gambling Act.

Both the Gambling Commission and Government have acknowledged that problem gambling levels have not increased. It has reduced.

In June 2020, the BGC’s five largest members committed to increasing the amount they spend on research, education and treatment (RET) services from 0.1 per cent to 0.25 per cent of their annual revenue in 2020, 0.5 per cent in 2021, 0.75 per cent in 2022 and 1 per cent in 2023. The five operators confirmed they will provide £100 million to GambleAware charity to improve treatment services for problem gamblers.

The BGC supported the creation of the new NHS gambling treatment clinics who have promised 22 clinics, 3 of which are open now. We are pleased that the NHS have committed to work to increase the number of clinics in the UK in addition to existing services delivered by Gordon Moody Association and GamCare’s 120 treatment centres located throughout the UK.

The BGC also recognises the Gambling Commission’s National Strategy as a way of accelerating progress on responsible gambling and tackling problem gambling. Our members are fully committed to meeting this challenge and are working to deliver new responsible gambling initiatives including technology that tackles problem gambling and increased funding for problem gambling clinics.

## **Differentiation between Licensing Act 2003 and Gambling Act 2005 applications**

When considering applications for premises licences, it is important that a clear distinction is made between the regimes, processes and procedures established by Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities – the regimes, processes and procedures relating to Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, those steps being then converted into premises licence conditions, there is no such requirement in Gambling Act 2005 applications where the LCCP provide a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%.

When reviewing draft statements of principles in the past, we have seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

### **Working in partnership with local authorities**

The BGC is fully committed to ensuring constructive working relationships exist between betting and gaming operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting and operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **Considerations specific to the draft Gambling Act 2005 Statement of Principles 2022-2025**

On a number of occasions throughout the policy, there are references to the promotion of the licencing objectives and indeed paragraph 1.1 indicates that the council will carry out its various licencing functions with a view to promoting the three licencing objectives. Any reference to promoting the licencing objectives should be amended in order to avoid confusion with Licensing Act 2003 applications. Under Gambling Act 2005, applications for premises licences must be reasonably consistent with the licensing objectives. There is no duty upon any entity to promote the licensing objectives for the Gambling Commission. In the circumstances, these references should be amended.

Paragraph 3.3 contains a list of criminal activities which may result in a review of premises licence. This is unnecessary and this paragraph can be amended by simply indicating that representations may be that criminal activities are taken place upon the premises.

Part 4 of the draft statement of principles explains the Licensing Authority's approach' to local area risk assessments. Within this section is a list of bullet points that the authority may consider significant and which, therefore, would warrant a new risk assessment being undertaken.

This list of bullet points should be redrafted. As only changes which would materially affect risk to the licensing objectives should be considered. The opening of a new pay day loan establishment or pawn brokers shop is not relevant to any assessment of risks to the licensing objectives and therefore this bullet point should be deleted. Similarly, the opening of a new public house or any other premises licence to sell alcohol has no bearing on any assessment of risks to the licensing objectives. This bullet point should also be redrafted.

Thereafter, within the same section, the draft statement of principle contains a further list of bullet points detailing matters that must be taken into account when preparing a local risk assessment. This includes pay day loan/pawn shops and places of worship. For the reasons given above, a pay day loan/pawn shop should be removed as should the installation of a cash machine/ATM and places of worship. Whilst it is accepted that places of worship may attract large numbers of people, their mere existence cannot be relevant to any assessment of risks to the licensing objectives.

Paragraph 4.3 explains the Licensing Authority's approach to the imposition on conditions on premises licences. This section would be assisted by an acknowledgement that the mandatory and default conditions are designed to be, and usually are, sufficient to ensure operation which is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that is not adequately addressed by the policies, procedures and mitigation measures outlined in the applicant's risk assessment.

It is important that these policies, procedures, and mitigation measures are dealt with in the risk assessment rather than by way of licence conditions as the risk assessment is a dynamic document and (in accordance with SR Code provision 10.1.2) must be reviewed if there is a significant change in local circumstances. As risks change or new risks are identified, the policies, procedures, and mitigation measures to address those identified risks may be changed very quickly. However, if the mitigation measures are the subject to the premises licence conditions, then an application for variation of the premises licence will be required to change these conditions. This could delay the implementation of any change and would cause unnecessary expense and administration for both operators and the licensing authority.

## **Conclusion**

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope that these comments above are useful. The BGC will work with you to ensure that its members' operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,

A handwritten signature in cursive script that reads "Gosschalks".

**GOSSCHALKS LLP**