

**Gambling Act Draft Licensing Policy Consultation**

A six week consultation was launched until 2<sup>nd</sup> September 2018, which consisted of letters and emails to local businesses and residents who have requested to be informed of our consultations. A webpage containing the Draft Gambling Act Licencing Policy draft document, including the Licensing Conditions was publicised and a media release was issued.

Approximately 350 letters and emails were sent out to giving direct notification to local residents and businesses and the information was forwarded to the Southend Business District, which includes a number of business in and around the Town Centre. Relevant bodies enforcing the Act and supporting vulnerable groups were also consulted, as were all those specifically required by the Gambling Act 2005 (the Act)

**The results**

A total of 9 respondents have responded to the consultation, no actual questions were set as we wanted responses and opinions on the content within the draft policy. Below are the comments received in full.

Comments	
National Licensing & Development Manager – William Hill	Licensing Authority (LA) Response
<p>Further to the publication of your draft Gambling Policy (2019-2022), we wish to respond on the following two points:</p> <p><i>13.6 As part of its ongoing inspection regime, The Licensing Authority may carryout test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Licence holders will always be advised of the outcome of the test. Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.</i></p> <p>We would not expect to inform every individual Local Authority of our own</p>	<p>Where Primary Authority agreements exist the LA does not</p>

test purchasing results, as we have over 2300 shops within approximately 350 different Local Authorities. This would create a significant amount of work, and as you aware from your paragraph following at 13.7, Primary Authority Schemes are in place in relation to Age Verification testing, for this very purpose. Our own results are shared with the Primary Authority, as well as the Gambling Commission, and if there are any concerns, then they will work with us to seek improvement. That is why the Primary Authority scheme is in place, and individual contact with each Authority is therefore unnecessary. We would therefore request that this section be amended to remove this requirement, in line with the approach all other Local Authorities take.

*21.6 The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required*

We would not agree that a full premises licence variation is required for the installation of privacy screens around gaming machines. When we install such a set-up, we would, as a responsible operator, consider the suitable positioning of the machine within the premises, and the ability of staff to be able to monitor the machines fully, which we feel would be the considerations you would be concerned with, as shown in the first part of this paragraph. So although we would be more than happy to discuss any concerns you may have, and introduce appropriate measures to alleviate

carry out its own test purchasing operations. This presents some difficulties for the LA in assessing the 'local picture' and where we are unable to obtain the results from the Primary Authority, we would expect this information to be provided by the operator. We would expect large chains to welcome the opportunity to work with the LA and sharing results forms part of that relationship. The policy is clear that this is an expectation and not a requirement.

Outcome – rewording of section 13.6 to reflect the above

The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state  
*Regulation 4*  
*(2) The plan must show—*  
*(b) where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building;*  
*(c) where the premises form part of a building, the location of any external or internal walls of the building which are*

these concerns if the situation arose, we certainly feel that the requirement for a full licence variation is unnecessary. The Gambling Commission's own current documentation states that 'Plans must include: the boundary of the premises, external and internal walls, points of exit and entry (plus a description of where exit leads to and entry leads from)'. So, even the position of the gaming machines is not actually a requirement. We do show the positions of our machines on licence plans, and also any screens around them, as we feel this is beneficial to Local Authorities, but we do not agree there can be a need to make a variation, for the movement of a fixture which need not be shown. If there is any concern, it can be discussed without such application having to be made.

I would appreciate it if you could give further consideration to these comments, before the final Policy is produced.

*included in the premises;*

*Regulation 8*

*Where the application is for a betting premises licence, other than in respect of a track, the plan must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence*

It is the view of the LA that to not show privacy screens certainly does not show the 'extent' of facilities for gambling in reliance on the licence and could be argued to be an internal wall.

In addition the Gambling Commission guidance 5<sup>th</sup> edition states: "*Licensing authorities should ensure that they request all the information required from an applicant for a new premises or for a variation to an existing premises in order to satisfy themselves as to the matters set out at s153 of the Act. This includes the codes of practice and this Guidance. The approach in adding case specific conditions can equally be deployed in respect of an existing unit where concerns arise or when changes are made to the operating model*".

Further, the Licence conditions and codes of practice at 9.1. – Gaming Machines in Gambling Premises, specifically sites the following social responsibility code for betting premises, "9.1.1 – 2 "*Facilities for Gambling must only be offered in a manner which provides appropriate supervision of those facilities by staff at all times*"

Adding screens is a change to both the operating model and

	<p>the plan submitted at the time of the original application and is likely to hinder appropriate supervision. In the LA view this requires a variation application. It is worthy of note that the Gambling Commission did not agree with the respondent's position (in their consultation response) in regard to the requirement for a variation application.</p> <p>Outcome – No Change to policy, save that a typo at section 21.6 of the policy stating “9.11.1” is to be corrected to “9.1.1”</p>
<p><b>Popleston Allen – for Power Leisure Bookmakers</b></p>	<p><b>Licensing Authority (LA) Response</b></p>
<p>We note the Council’s proposals at paragraph 13.6 of the draft Statement of Gambling Policy which require that:</p> <p><i>“Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.”</i></p> <p>Our comments are as follows:</p> <ol style="list-style-type: none"> <li>1. A statement of Gambling Policy cannot place an obligation upon a licence holder. This must be done by way of a premises licence condition. The wording of the proposed condition states that there is an expectation by the Council to be advised of test purchase results. The Gambling Act 2005 does not give any right this expectation. We are also concerned about the potential for disparity between those operators who do not report all test purchase results and those that do.</li> <li>2. The Licence Conditions and codes of practice do not place any further</li> </ol>	<p>Where Primary Authority agreements exist the LA does not carry out its own test purchasing operations. This presents some difficulties for the LA in assessing the ‘local picture’ and where we are unable to obtain the results from the Primary Authority, we would expect this information to be provided by the operator. We would expect large chains to welcome the opportunity to work with the LA and sharing results forms part of that relationship. The policy is clear that this is an expectation and not a requirement.</p>

<p>mandatory obligation on the licence holder in respect of test purchases.</p> <p>Under the LCCP licensees are expected consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted</p> <p>Our client is committed to working in partnership with the Gambling Commission and local authorities to continue to promote best practice and compliance in support of the licensing objectives.</p>	<p>Outcome – rewording of section 13.6 to reflect the above</p>
<p><b>Health Improvement Practitioner – Public Health Southend Council</b></p> <p>Thank you for the invitation to provide a response to the gambling consultation. As a Public Health team we are encouraging a Health in All Policies approach to Council and wider system working. By adopting a ‘whole council’ approach to tackling gambling related harm as promoted by recent LGA guidance<sup>1</sup> we can work collaboratively to improve outcomes for those that live, work and visit Southend. We welcome the new gambling policy as an opportunity to further understand and mitigate the risk of harm that problem gambling can bring to the community of Southend.</p> <p>This consultation response details areas where we feel a stronger focus could be made within the new policy and/or future policies to protect those most at risk of harm from gambling and to align the policy with the emerging corporate Drug, Alcohol, Problem Gambling and Tobacco Control Strategy</p> <p><b>Summary and Recommendations:</b></p> <p>The refresh of the Gambling Licensing policy has been a timely opportunity to explore how public health can further support the Council’s regulatory responsibility to reduce the harm that gambling can cause to individuals and communities and the health and social inequalities that gambling can</p>	<p><b>Licensing Authority (LA) Response</b></p>

exacerbate. Below are recommendations for the policy refresh and regulatory practice- we would welcome further conversations as to how we can support the implementation of these recommendations.

1. To include a section on Problem Gambling within the policy to explicitly state the emerging public health issues in relation to gambling and how this fits with the licencing objective to protect children and vulnerable people from harm

The purpose of the Statement of Licensing Policy is to set out the principles by which Southend-on-Sea Borough Council, as the Licensing Authority under the Gambling Act 2005 intends to apply in discharging its functions to licence premises for gambling under the Act. Section 153(1) of the Act states “*In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—*

*(a)in accordance with any relevant code of practice under section 24,*

*(b)in accordance with any relevant guidance issued by the Commission under section 25,*

*(c)reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and*

*(d)in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).”*

While the act sets out the protection of the vulnerable as an objective and this will be taken into account when judging an application in accordance with Section 153(c), the correct policy to address problem gambling would be Public Health’s (PH) Gambling, Alcohol, Smoking & Drugs strategy. A member of the licensing authority sits on the panel creating that document. In addition the LA produces a Local Area Profile for use of applicants in risk assessing the impact of their

<p>2. To stipulate that the Responsible Authority will work with Public Health colleagues to review local area profiles to ensure more detailed public health knowledge and intelligence regarding proliferation of gambling establishments, proximity to vulnerable populations and other relevant data are used to inform future licensing decisions and consider using mapping tools to communicate this information. This work will also support the development of other local Joint Strategic Needs Assessment products.</p> <p>3. To amend wording around test purchasing to include test purchasing for problem gambling measures such as self-exclusion. There should also be a piece of work external to the policy development that looks at pathways for intelligence gathering regarding poor practice to inform our test purchasing programme.</p> <p>4. To strengthen our requirements of industries to make more robust use of the risk assessment process and to support licensees to do this with best practice examples and other support mechanisms.</p>	<p>application. Included within this is PH data on depravation. The LA would be happy to incorporate addition information from PH at the next review of that document and reference the PH strategy within it.</p> <p>Outcome – no change to policy</p> <p>THE LA already do work with PH on the local area profile but this can be stated in the policy.</p> <p>Outcome – addition at section 14.16</p> <p>It would be impossible to test self-exclusion as the very nature of the exclusion is that the details of the excluded person are confidential and only known to the premises staff and the excluded person. Thus the only ‘tester’ could be the excluded person them self.</p> <p>Outcome – no change to policy</p> <p>Local area risk assessments (LARA) have only been in the policy since last year. Thus the LA is still in the ‘learning stage’ in regard to their effectiveness and at this point best practice examples are few and far between. As the LARA systems</p>
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<p>5. There is an amendment required to the name/address for responsible authority as there is no longer a Department for Children and Learning and (assuming it should no longer be based at Queensway House).</p> <p>6. Ensure that all appropriate bodies are proactively approached for consultation on this policy.</p> <p><b>Feedback on current draft policy:</b> Below is feedback on the current draft policy collated through discussions at Public Health DMT and in discussions with the Drug and Alcohol Commissioning Team. There is broad topic based considerations that are included along with some very specific feedback including wording of the document etc</p> <p><b>Problem Gambling:</b> Whilst the current draft references the licensing objectives and the protection of children and other vulnerable persons, there could be strengthening of our definition of vulnerability and more explicit description</p>	<p>evolves best practice examples can be added to the Local Area Profile, a document provided by the LA as a support mechanism in producing LARAs.</p> <p>Outcome – no change to policy (Note: Changes to the Local Area Profile are delegated to Officer level)</p> <p>Agreed</p> <p>Outcome – Updated in 9.3 and Annex B</p> <p>The Act specifies who should be consulted as a minimum and the LA went way beyond the legal minimum. In excess of 350 consultees were contacted and advised of the consultation including appropriate bodies</p> <p>Outcome – no change to policy</p> <p>The policy states at 14.20 <i>“There is no definition of the term ‘vulnerable person’ in the Act, but this could include people who are gambling beyond their means and people who may</i></p>
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of gambling related harm and “problem gambling”. Whilst there is not currently a strong recognition of gambling as a Public Health issue in the UK it is an emerging topic, following work from countries including Canada, New Zealand and Australia.

The harm caused by gambling is unequal in distribution, with those who are economically inactive and living in deprived areas suffering the most harm. At a population level, there are lots of people experiencing small amounts of harm from gambling, and a small number of people that experience high levels of harm. The harms from gambling to wider society include fraud, theft, loss of productivity in the workforce.

The harms caused by gambling for the individual include anxiety, stress, depression, and alcohol and substance misuse. These factors are likely to have a wider impact on family and friends. Further family problems can include ‘money troubles’ and family breakdown, as well as neglect and domestic abuse. There are higher rates of separation and divorce among problem gamblers compared to the general population. Further impacts of gambling include the inability to function at work, and financial problems which can lead to homelessness. The complexity of gambling means that individuals experiencing severe harm from gambling often gamble using several different products and channels.

The co-occurrence of alcohol and gambling problems has been well-documented. Amongst people with alcohol misuse disorders, rates of problem gambling are eight times higher. In addition, many people in a longitudinal study in Glasgow also documented that alcohol premises were often situated alongside gambling premises; providing an environmental association between the two types of behaviour that moves beyond the level of the individual. There is also significant evidence of co-occurrence of

*not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.”* The LA is of the opinion that without a legal definition, vulnerable persons could actually be excluded from protection if there is a specified definition within the policy.

Outcome – no change to policy

gambling and other substance misuse, in addition there is a strong correlation between the severity of substance use and the severity of problem gambling. Whilst the causative relationship between problem gambling and mental health illness is not clearly established increasing gambling is associated with reduced mental health status.

#### Proximity of Premises to vulnerable populations

Proximity to gambling facilities has been correlated with increased participation in gambling, and problem gambling. The density of gambling outlets is also linked to greater gambling-related harm.

Whilst the definition of the population described under the “protection of children from harm” licensing objective is clear (those under the age of 18), the definition of “vulnerable people” is less so. To understand proximity of gambling establishments to places where vulnerable people may frequent, these places may include hospitals, residential care homes, medical facilities, doctor’s surgeries, council housing offices, job centre offices, sheltered housing, hostels, foodbanks, educational establishments, payday loan shops and addiction clinics/help centres. Places where alcohol or drug dependant people or those consuming alcohol at high risk levels may congregate should also be taken into consideration due to the aforementioned co-occurrence risk.

#### Local Area Profiles:

Research in England shows that the placement of gambling venues is not random: there are more gambling machines in deprived communities. Gambling problems and harms impact the poorest in our society the most. Lower income households spend a higher proportion of their income on gambling.

A significant portion of the policy recognises potential issues with the location of gambling premises specifically in sections 14.7 to 14.18. The Local Area Profile maps their proximity to places where vulnerable people may frequent and requires operators and applicants to risk assess the impact of their operation or application on the locale.

Outcome – no change to policy.

Harm caused by problem gambling may be exacerbated in deprived areas and the proliferation of betting shops risks creating a causal link between clustering and poverty. A study by Geofutures found that, while there are no statistically significant differences in problem gambling prevalence, problem gambling and moderate risk prevalence rates were higher among those who lived in areas of higher clustering.

A number of other local authorities have used mapping tools relevant key indicators, these maps enable officers and licensees to understand the current picture in Southend specific geographies. These maps can influence licensing decisions and inform risk assessments and mitigating actions to reduce risk of harm. Key indicators that could be mapped include; areas of high crime/anti-social behaviour, areas of access to alcohol, areas within close proximity to vulnerable populations (see above), areas of high existing proliferation, areas of high deprivation.

#### Fixed Odds Betting Terminals (FOBT):

Currently anyone gambling on a FOBT can bet between £1 and £100 every 20 seconds on casino games such as virtual roulette, or simulated horse and greyhound races, potentially losing significant amounts of money and placing people - including the most vulnerable in society - at serious risk of significant harm

The Government Consultation proposing the introduction of a £2 maximum stake ended in January 2018 and the government has since announced that they will be enforcing the £2 limit. No timetable has yet been set for implementation and a 2 year “grace” period to allow the gambling industry time to adjust to the change in legislation means that the £100 maximum stake will remain in place until at least 2020.

The LA uses the Local Area Profile for exactly this purpose.

Outcome – no change to policy

The LA is aware of the government proposal and the potential timeline for its implementation. The Gambling Commission’s ‘Licence conditions and Codes of Practice’ address certain aspects of betting shop machines and operators are required by the Act to comply with these. In addition a specific section on fixed odds betting terminals has been added to the policy this time in response to national concerns about these machines. This outlines expected minimum control measures and stating the Licensing Authority view on the emerging trend of fitting privacy screens in betting shops. (21.5 & 21.6)

Outcome – no change to policy

Figures from the Campaign for Fairer Gambling suggest that there are twice as many FOBTs in the country's 55 most deprived areas as there are in the 115 richest districts, and they record more than double the losses.

#### Test Purchasing:

The main focus of test purchasing for Gambling is dedicated to the protection of children from harm. Whilst this is of course of paramount importance there is also potentially a role for test purchasing to protect those vulnerable individuals, for example testing self-exclusion practices by businesses. There are also many opportunities to engage existing services that may be supporting vulnerable people who are experiencing gambling related harm and co-occurrence issues (eg. Substance misuse), where intelligence could be gathered on poor practice and feedback provided to the authority to inform test purchasing programmes. It is further recommended that test purchasers are potentially recruited from such services in order to, as far as is possible, provide a plausible candidate rather than one that may be more readily identifiable as a test purchaser and thus undermine the intent of the approach.

#### Responsibility of the industry

There is a requirement for all licenced premises to complete risk assessments with relevant mitigating actions in relation to local area profiles and any other emerging issues. There are opportunities for local authorities to ensure robust risk assessments are undertaken, reviewed regularly and are disseminated to all staff. The licencing policy refresh provides an opportunity to stimulate further improvements in risk assessments and for the authority to provide best practice guidance for risk assessments. Improving the quality of local area profiles can also support businesses to improve their risk assessments and associated mitigating actions.

It would be impossible to test self-exclusion as the very nature of the exclusion is that the details of the excluded person are confidential and only known to the premises staff and the excluded person. Thus the only 'tester' could be the excluded person them self.

Outcome – no change to policy

Local area risk assessments (LARA) have only been in the policy since last year. Thus the LA is still in the 'learning stage' in regard to their effectiveness and at this stage best practice examples are few and far between. As the LARA systems evolves best practice examples can be added to the Local Area Profile, a document provided by the LA as a support mechanism in producing LARAs.

Outcome – no change to policy (Note: Changes to the Local Area Profile are delegated to Officer level)

<p><b>Consultation:</b> LGA Guidance suggests that in developing statements of policy authorities should consult widely and with those who may have relevant insight on local risks and issues including:</p> <ul style="list-style-type: none"> <li>• organisations working with people who are problem gamblers, such as Gamcare and family support groups</li> <li>• advocacy organisations, such as the Citizen’s Advice Bureau</li> <li>• homelessness and housing services / associations</li> <li>• local mental health teams and safeguarding boards</li> <li>• local businesses</li> </ul>	<p>All the bodies listed here are consulted.</p> <p>Outcome – no change to policy</p>
<p><b>Resident of the Borough</b></p> <p>My views on the Southend-on-Sea Gambling Licensing Policy are:</p> <ul style="list-style-type: none"> <li>• There are far too many 'bricks and mortar' gambling venues in the Southend area already; for individuals with internet access the public has more than adequate access to online gambling</li> <li>• Limit/Cap the number of gambling venues in our area</li> <li>• Gambling is a non-essential household expense which can lead to financial difficulties/debt for individuals prone to gambling addiction</li> <li>• Where there has been recurring public disorder at a gambling venue, the license should be revoked when it is up for renewal and should NOT be replaced with another gambling venue</li> </ul>	<p><b>Licensing Authority (LA) Response</b></p> <p>Section 153 of the Act is specific in stating that ‘need’ cannot be taken into account when deciding an application. In 2015 the Government moved betting and payday loan shops out of the A2 planning class and into the ‘sui generis’ class. This means that planning permission is now required before a building can change to either of these uses; thus local authority controls on number of premises will be via the planning regime rather than the licensing one</p> <p>The LA has no power to cap the number of premises.</p> <p>See comments on problem gambling above in the response to public health.</p> <p>Southend does not suffer from ‘recurring public disorder at a gambling venues’ and if this was an issue there is the power for the police to review the licence. There is no power</p>

	<p>however to prevent a gambling application being made for the same site.</p> <p>Outcome – no change to policy</p>
<b>Gambling Commission</b>	<b>Licensing Authority (LA) Response</b>
<p>Thanks for the circulation of your policy statement, very comprehensive. Please can you signpost to the PA list on the Gambling Commission website <a href="http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Premises-assessments/Premises-assessments-toolkit.aspx">http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Premises-assessments/Premises-assessments-toolkit.aspx</a> (as the list at 13.7 in the consultation isn't accurate any more)</p>	<p>Agreed</p> <p>Outcome – Section 13.7 updated to include the correct list of Primary Authority agreements.</p>
<b>Essex Chambers of Commerce</b>	<b>Licensing Authority (LA) Response</b>
<p>I am writing in response to the email below. We have considered the proposals contained in the Council's Gambling Licensing Policy Statement 2019 – 2022 and have no objections to them.</p>	<p>Outcome – no change to policy</p>
<b>Historic England</b>	<b>Licensing Authority (LA) Response</b>
<p>Historic England do not wish to make comments on the Gambling Policy but thank you for consulting us.</p>	<p>Outcome – no change to policy</p>
<b>Port of London Authority (PLA)</b>	<b>Licensing Authority (LA) Response</b>
<p>Just to confirm, the Port of London Authority (PLA) has no comments to make regarding this consultation, on the proposed gambling policy for Southend-on-Sea borough Council</p>	<p>Outcome – no change to policy</p>
<b>Highways England</b>	<b>Licensing Authority (LA) Response</b>
<p>Thank you for your consultation. The following is unlikely to have any impact on the strategic road network. We therefore offer no comments in this instance.</p>	<p>Outcome – no change to policy</p>

## Breakdown of respondents

Of the nine responding the breakdown is

