



## **Appendix 2 Gambling Act Policy consultation summary**

Consultation Date: 12<sup>th</sup> Jan-14<sup>th</sup> February 2025

### **Representations**

### **Response**

<p>1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the Act) it is subject to the <b>Regulators' Code</b>. That Code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. The draft references the "relevant codes of practice" under the sections titled Enforcement (para 7 of Part A) and General Principles (para 1 of Part B), which we believe might be to the Regulators' Code. However, that Code has much broader application than those detailed within the Draft. We suggest it would be helpful to include reference to the Code and the above obligations within the Draft.</p>	<p>Section 7 Enforcement already sets out the Licensing Authorities principles and endeavours to be proportionate, accountable, consistent, transparent and targeted. All of which help to reduce unnecessary impacts on those it regulates.</p>
<p>2. Para 1.1 of Part B – This para states the Authority is able to exclude default conditions and also attach others, "<i>where it is believed to be appropriate</i>". The Gambling Commission's guidance on this is that the Authority "<i>must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and this guidance, or</i></p>	<p>Added wording to make clear any decision on conditions are made in accordance with the decision making set out in 1.2.</p>

<p><i>their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions”</i> (see para 9.28 of the Gambling Commission’s Guidance for Licensing Authorities). We suggest that this wording is utilised within this para 1.1 to reiterate the Authority’s aim to permit and clarify when default conditions are excluded, or other conditions are attached.</p>	
<p>3. Para 1.5 of Part B (bullet point 1) – The legislation permits children to gamble in some situations on Category D gaming machines, as acknowledged with the use of <i>“where they are prohibited from participating”</i> within this para 1.5. We suggest this para 1.5 should be amended to clarify this further and acknowledge that children are permitted to gamble in these situations. For example, <i>“In practice that means not only preventing them from taking part in gambling”</i> should be removed, and <i>“where they are prohibited from participating”</i> should be repeated after <i>“close proximity to gambling”</i>.</p>	<p>Bullet point reworded to make requirement clear: • <i>the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling where they are prohibited from participating in but also preventing them from being in close proximity to gambling activities where they are prohibited from participating in. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.</i></p>
<p>4. Para 1.10 of Part B - For clarity, we refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then guidance issued by the Gambling Commission was wrong. The Guidance was subsequently amended (please see para 7.59 of the of the Gambling Commission’s Guidance for Licensing Authorities). As such, we suggest that the wording of this para be amended to make it clear that applications for premises licences can be made regardless of whether the building in question is complete or finished or needs to be altered. An applicant may apply for a provisional statement if the building is not complete, but it does not</p>	<p>Added the following to the end of 1.10 of Part B, to make it clear an application can be made. Wording taken from the Gambling Commission Guidance to Local Authorities:  <i>Operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and the licensing authority will determine any such applications on their merits. Such cases will be considered in a two stage process; first, the licensing authority will decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application the licensing authority will consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.</i></p>

have to do so and can instead apply for licence.	
5. Para 1.12 of Part B – With respect, the current drafting for this para may be misinterpreted. S153 of the Gambling Act 2005 (the “Act”) sets out that licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it: in accordance with any relevant codes of practice and guidance of the Gambling Commission; reasonably consistent with the licensing objectives; and in accordance with the Authority’s statement. We suggest this para should be amended to reflect the Authority’s ‘aim to permit’ obligation.	<p>Added wording as follows:</p> <p>1.2 This licensing authority is aware that in making decisions about premises licences, including licence conditions, it should aim to permit the use of premises for gambling if it believes it is in accordance with the following:</p> <ul style="list-style-type: none"> <li>• in accordance with any relevant code of practice issued by the Gambling Commission;</li> <li>• in accordance with any relevant guidance issued by the Gambling Commission;</li> <li>• reasonably consistent with the licensing objectives; and</li> <li>• in accordance with the authority’s statement of licensing policy.</li> </ul>
6. Para 1.21 of Part B – As set out in bullet point 3 above, preventing children from taking part in gambling does not apply to Category D gaming machines. We suggest this para 1.21 is amended to reflect this exception.	Added wording to 1.21: <i>prohibited from participating in</i> to sentence as this is consistent with previous reference used in 1.5.
7. Para 1.26 of Part B (bullet point 3) – Para 7.27 of the Gambling Commission’s Guidance for Licensing Authorities states that access to the area where the machines are located is supervised by either: “ <u>one or more persons whose responsibilities include ensuring that under- 18s do not enter the areas; or CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas</u> ”. We suggest that para 1.26 is amended to clarify that supervision includes CCTV.	<p>Supervision via CCTV added, wording for CCTV monitoring requirement taken directly from Gambling Commission LA guidance, additional wording added to bullet point in italic:</p> <ul style="list-style-type: none"> <li>• access to the area where the machines are located is supervised; <i>supervision can be via CCTV providing the CCTV is monitored by one or more persons whose responsibilities include ensuring under 18s do not enter the areas.</i></li> </ul>
8. Para 3.2 of Part B (bullet point 9) – The third licensing objective of the Act is to protect children and other vulnerable people from being harmed or exploited <u>by gambling</u> . The obligations placed on the applicant in para 3.2 go beyond this licensing objective. We suggest this para should be removed.	The following is already stated after the bullet points in 3.2: <i>This list is not mandatory, nor exhaustive, and is merely indicative of example measures</i> . It is therefore clear these are not obligations placed, but rather promotion of examples of good practice, so should remain.
9. Para 10.7 of Part B – This para correctly identifies s153 of the Act, but it would be useful to specifically refer to the ‘aim to permit’ language from the Act to reiterate the Authority’s aim to permit obligation.	Reference is made in 10.7 to the principles set out in section 153 of the act, addition of “aim to permit” not deemed necessary.

<p>10. Annex 1 of Part D – The Draft does not include an authority in relation to pollution to the environment or harm to human health. This authority should be added within annex 1.</p>	<p>Authorities relevant to pollution and human health are already included as consultees in Annex 2- Annex 2: List of Consultees on the original Statement of Principles. These were consulted during this consultation. No change required.</p>
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