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Your ref:
Date: 29 September 2016

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Our members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft 2017-20 statement of principles.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and our commitment to working with local authorities in partnership. The response finishes by highlighting matters within the draft statement of principles, the guidance on undertaking local gambling risk assessments and pool of model conditions which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, The ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also

believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

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 numbers as at 31 Mar 2016 were 8,809 - a decline of over 300 since March 2014, when there were 9,137 recorded.
- recent 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.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting 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 operators is a key part of this and the opportunity to respond to this consultation is welcomed.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and

socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account

based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both we and our members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to contact us.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe what the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with our smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Employing additional licence conditions

It should continue to be the case that additional conditions 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 the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has 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 ABB 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

Other concerns

Where a local area profile is produced by the licensing authority, 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.

Considerations specific to the 2017-2020 Statement of Principles

Throughout the draft statement of principles and guidance on undertaking risk assessments there are references to factors that the licensing authority expects to be taken into account when undertaking local area risk assessments. The statement of principles correctly recognises that the requirement under the LCCP is for licensees to assess the local risk to the licensing objectives posed by the provision of gambling facilities at their premises. The lists of factors to be taken into account, however, need to be redrafted as these contain factors that can have no bearing upon

whether or not the operation of gambling facilities poses a risk to the licensing objectives. For example, within paragraph 4.6 of the Guidance on Undertaking Local Gambling Risk Assessment, one of the factors to be taken into account is "*the ethnicity, age, economic make-up of the local community.*" Similarly within paragraph 7 to the statement of principles (Local Area Profile) it is suggested that the socio-economic make-up of the area is a relevant consideration. The relevant affluence or ethnic make-up of an area can have no bearing on any risk to the licensing objectives unless the licensing authority has pre-determined that persons of a particular socio-economic group or ethnicity are either automatically vulnerable or more likely to be involved in crime or disorder related to gambling. We doubt that the licensing authority has made that pre-determination and we respectfully submit, therefore, that the lists of factors to be taken into account should be redrafted such that they relate solely to factors that could have an impact on whether or not the operation of premises is reasonably consistent with the licensing objectives.

These lists also contain factors such as the proximity of payday loans or pawnbrokers premises (paragraph 3.4 – Guidance on Undertaking Local Gambling Risk Assessments). Once again, it is impossible to see how the proximity of such premises could have any impact upon the licensing objectives unless the licensing authority has determined that persons using such premises are automatically vulnerable or more likely to be involved in crime or disorder caused by gambling.

Within appendix 2 of the draft statement of principles there is an explanation of the licensing authority's approach to the imposition of conditions on premises licences (appendix 2 paragraph 2(i)). The statement of principles would be assisted by a clear statement that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The draft statement of principles should make it clear that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented. It is important that the evidential basis for the imposition of additional conditions is clearly established and references to conditions being imposed where it is "believed to be appropriate" or there is a "perceived need" (both references in paragraph 2(1) of appendix 2) should be removed.

Paragraph 2(3) of appendix 2 is headed "Location". This paragraph causes the ABB significant concern. This paragraph suggests that the licensing authority may designate a particular area as an area where gambling premises should not be located. Any such designation may be unlawful and is certainly contrary to the overriding principle of "aim to permit" contained within s153 Gambling Act 2005. We respectfully submit that this paragraph be redrafted such that it is clear that each application will be determined on its own merits.

Within the Guidance on Undertaking Local Gambling Risk Assessments, at paragraph 4.20 there is reference to the pool of model conditions and a statement that "*operators are encouraged to use this pool of conditions in formulating appropriate control measures to mitigate risks to the licensing objectives identified in the local risk assessments.*"

It is not clear whether or not the licensing authority is expecting applicants to "offer" conditions as applicants are required to do under Licensing Act 2003. This paragraph should be redrafted so that

it is clear that there is no requirement to "offer" conditions and that measures suggested are control measures to be implemented through the risk assessment.

Annex A in the Guidance to Undertaking Local Gambling Risk Assessment contains a form of risk assessment. There is a statement that "*this risk assessment must be completed for all new premises...*" This statement should be redrafted so that it is clear that operators may use this form or another form of risk assessment. The licensing authority may not specify a form that must be used.

The final document that we have reviewed is the council's Pool of Model Conditions. The statement of principles should be clear that these conditions should not be viewed as a shopping list from either the licensing authority or responsible authorities. Conditions may be imposed where there is evidence of a specific risk to the licensing objectives. Each application must be considered on its own merits.

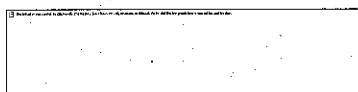
Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



GOSSCHALKS

