

## Wendy Peck

---

**From:** Dale Allen <dallen@gamblingcommission.gov.uk>  
**Sent:** 26 July 2018 08:40  
**To:** Wendy Peck  
**Subject:** DRAFT SoP - Hyndburn BC

Hi Wendy

I note within your DRAFT SoP from Section 12.8 onwards, you concern yourself with the issues relating to Local Risk Assessments (SR Code Provision 10.1). Have you considered including in the document, a Licensing Authority expectation that LRA's will be kept on the premises?

Kind regards

Dale

**Dale Allen**

**Compliance Manager**

**GAMBLING COMMISSION**

Victoria Square House

Victoria Square

Birmingham B2 4BP

Telephone: 01212306919

Fax: 0121 230 6720

Mobile: 07931361060

E Mail: [dallen@gamblingcommission.gov.uk](mailto:dallen@gamblingcommission.gov.uk)

Secure E Mail: [dale.allen@gc.cjsm.net](mailto:dale.allen@gc.cjsm.net)

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

**Confidential intelligence line - 0121 230 6655**

All information - including email communications - may be subject to disclosure under the Freedom of Information Act.

The information in this email is intended only for the named recipient and may be privileged or confidential. If you are not the intended recipient please notify us immediately and do not copy, distribute or take action based on this email.

This email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came



**GOSSCHALKS**  
SOLICITORS

BY EMAIL ONLY  
Licensing Department  
Hyndburn Borough Council

Please ask for: Richard Taylor  
Direct Tel: 01482 590216  
Email: [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)  
Our ref: RJT / AW / 097505.00005  
#GS2231756  
Your ref:  
Date: 23 October 2018

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. Its 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 gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement 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 with regard, to the requirements for local area risk assessments.

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 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.

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 of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- 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.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been 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 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 the ABB and its 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 make contact.

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 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 its 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

### **Considerations specific to the Draft Statement of Principles 2019 to 2021**

Paragraph 12.11 in Part B contains a list of bullet points that the licensing authority will expect applicants to consider as a minimum when completing a risk assessment. This list of bullet points needs to be re-drafted as it contains matters that are not relevant to an assessment of the licensing objectives.

The purpose of the local risk assessment is to assess local risks to the licensing objectives and have policies, procedures and control measures to mitigate those risks. The bullet points suggest that "ethnicity, age, economic make-up of the local community" are all expected to be considered. An individual's age or heritage is not relevant to an assessment of risk to the licensing objectives unless the licensing authority has predetermined that persons of a particular age or heritage are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not been made.

Similarly, the economic make-up of the area, the proximity of pawnbrokers/pay day loan businesses or other gambling premises in the vicinity are all irrelevant considerations. The relevant affluence of an area cannot be relevant to any assessment or risk to the licensing objectives and nor can the proximity of pay day loan premises, pawnbrokers or other gambling facilities. In the circumstances the list of bullet points should be re-drafted to concentrate purely on what is relevant.

Paragraph 12.17 refers to the six indicators of betting as primary gambling activity. This paragraph should be removed as it is out of date. The Gambling Commission no longer uses the concept of "primary gambling activity" following consultation in 2015 and thereafter amended Guidance and SR Code provisions. The requirement with regard to betting now is contained within SR Code provision 9.1.1. Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non remote betting provided.

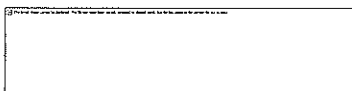
## Conclusion

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**

**From:** elizabeth speed [mailto:[espeed@novomatic.co.uk](mailto:espeed@novomatic.co.uk)]

**Sent:** 17 August 2018 12:46

**To:** licensing

**Cc:** Tracey Rose

**Subject:** The Gambling Act 2005 - Borough of Hyndburn Statement of Principles Consultation

Dear Sirs

### **Gambling Act 2005 – Statement of Principles Consultation**

Thank you for the opportunity to make comments in relation to the above consultation. On behalf of Talarius Limited we make the following points in relation to the existing policy which for these purposes is the consultation draft (the "Draft"):-

1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. 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. We suggest that the Draft makes it clear that the Code applies generally to the Authority's activities under the Act.
2. Para 11: The Draft confirms that the Authority is committed to avoiding duplication with other legislation and regulatory regimes and to avoiding the replication of other legal requirements (para 2.3 and 12.35). At para 1.2 it also acknowledges that the requirement to protect children and other vulnerable persons (under the third licensing objectives) is explicitly to protect them from harm or exploitation by gambling. Those positions are correct. We therefore do not think the provisions of para 11 are appropriate. While issues of CSA are very important, they are not matters to be dealt with under the Act and it is only matters under the Act that should be included in the Draft. We submit that this para should be removed from the Draft.
3. Paras 12.8 and 12.9: these paras both deal with the same provisions of the LCCP on LRAs, but because they are set out in 2 separate paragraphs, it might be confusing to readers and suggest to them that they are separate matters. We suggest that these paragraphs be amended and merged.
4. Para 12.12 page 16: We submit that to expect that licensees will be aware of all changes to "the provision, .... and/or timings of public transport..." would be unrealistic and unreasonable. While a relocation of a bus stop will be visible and can therefore be dealt with in the LRA, the other matters are not. We recommend that these provisions be removed.
5. Para 12.14: As the Draft acknowledges, the Act expressly states that demand is not an issue that is relevant to applications for premises licences and the Commission's Guidance confirms this. Gambling and the provision of gambling facilities carried on under, and in accordance with, the Act are legal and legitimate activities. As such the first bullet point as drafted is inappropriate and should be removed. Unless it would, in the specific circumstances of an application, conflict with the licensing objectives, the fact of "clustering" is not a matter for the Act. Rather it is a matter for the planning regime.
6. Para 12.21: As the Authority appreciates, children are permitted to be involved in limited types of gambling (Category D machines) and we suggest that the bullet point commencing "The third licensing objective..." is amended to reflect that.
7. Para 12.25 – 12.28: Contrary to the Draft, it is perfectly legitimate for an application to be made for a premises licence even though the premises are not finished or complete. 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 current Guidance issued by the Commission was wrong. The Guidance was subsequently amended. As such, we suggest that the wording of these paras 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. An applicant may apply for a provisional statement if the building is not complete, but it does not have to do so and can instead apply for licence. We suggest that this paragraph is amended. Similarly we recommend that paragraphs 12.33 and 12.36 be amended to remove the reference to "finished buildings" – the buildings do not have to be finished for an application to be considered – and para 20 be amended to clarify that an application for a provisional statement is just one option in the circumstances outlined.

8. Para 12.41: Please see our point 6 above. Again, we submit that this para should be amended.
9. Para 13.2: As the Authority knows, adult only areas are permitted in FECs. As such, we suggest that "proof of age schemes" be included in the list of bullet points of potential measures/conditions.
10. Para 16: We note that the list of possible measures/conditions set out for AGCs and FECs is not repeated for Bingo premises, despite the fact that such premises provide access to gaming machines as well as other activities and stakes/prizes at such premises can be at least as great as in AGCs and FECs. We suggest that this unjustified inconsistency be remedied.
11. Para 16.1: The described entitlement for Bingo premises to offer B3/B4 gaming machines is not quite correct. The wording is only correct for premises where the licence came into effect before 13 July 2011. For those licences that came into effect after that date, the entitlement is only to 20% of all gaming machines - a minimum of 8 does not apply.
12. Para 17.3: We note that the reference to gaming machines is under the heading of Betting Machines. This might be confusing and we suggest that the difference between the two is emphasised.
13. Para 22.5: We do not understand why "harm" in the context of UFEC permits is stated in the Draft to be broader than it is for licensed premises, where gaming machines of a higher category are present. Both types of permissions are creatures of the Act and subject to the same licensing objectives. The 3<sup>rd</sup> licensing objective is very clear that it relates to harm or exploitation by gambling. As such, we do not think it can be correct that applicants for a permit can be expected to consider harm to children in a wider sense, under the Act. This is reinforced by para 23.7 which states that the harm to children that is relevant in the context of gaming machines in pubs (where the category of gaming machines available can be higher than in in UFECs) is restricted to harm or exploitation by gambling. That is correct and we suggest that para 22.5 is corrected.
14. Appendix B: The authority for Health and Safety is not a RA under the Act (as opposed to the Licensing Act 2003) and as such the first heading on page 41 is incorrect. We suggest it is amended to reflect s157 (g) of the Act.

We hope that the above proves useful. If you have any questions, please do not hesitate to contact us.

Yours faithfully,

Elizabeth Speed  
Group General Counsel  
**Novomatic UK**

Direct +44 (0) 191 497 8222  
Mobile +44 (0) 7808 571 588