

Licensing authority bulletin

November 2017

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News

Government's consultation on proposals for changes to gaming machines and social responsibility measures

LAs are strongly encouraged to read and respond to this DCMS consultation, either directly or through the LGA/WLGA/COSLA. The consultation closes on 23 January 2018, following which Government will consider its final proposals. The consultation covers a broad range of proposals to address social responsibility and problem gambling beyond just changing stakes and prizes on gaming machines.

Following a call for evidence last year, the Government has now published a [consultation](#) that covers proposals relating to:

- maximum stakes and prizes for all categories of gaming machines permitted under the Gambling Act 2005
- allocations of gaming machines permitted in all licensed premises under the Gambling Act 2005
- social responsibility measures for the industry as a whole to minimise the risk of gambling-related harm, including on gambling advertising, online gambling, gaming machines and research, education and treatment (RET).

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Tracey Crouch (Parliamentary Under Secretary of State at the Department for Digital, Culture, Media and Sport) said "We believe that the current regulation of B2 gaming machines is inappropriate to achieve our stated objective of protecting consumers and wider communities. We are therefore consulting on regulatory changes to the maximum stake, looking at options between £50 and £2, in order to reduce the potential for large session losses and therefore to the potentially harmful impact on the player and their wider communities.

While the industry proposes increases to the remaining stakes and prizes, and permitted numbers and allocations across other categories of machine (B1, B3, B3A, B4, C and D gaming machines), we believe retention of the current regulatory environment will better protect players from potential harm than industry's proposed increases.

We are aware that the factors which influence the extent of harm to the player are wider than one product, or a limited set of parameters such as stakes and prizes, and include factors around the player, the environment and the product. We are therefore also consulting on corresponding social responsibility measures across gaming machines that enable high rates of loss, on player protections in the online sector, on a package of measures on gambling advertising and on current arrangements for the delivery of research, education and treatment (RET). Within this package, we want to see industry, regulator and charities continue to drive the social responsibility agenda, to ensure all is being done to protect players without the need for further Government intervention, and that those in trouble can access the treatment and support they need."

Commission's drop-in surgery at the IOL National Training Event

We presented along with Brighton & Hove Council on Thursday 16 November at the Institute of Licensing (IOL) training event in Stratford upon Avon. The focus of the presentation was gambling Statements of Policy which need to be reviewed and published by January 2019.



To coincide with the event we have published a [quick guide for councillors](#) on licensing committees and boards about the statutory requirement to review gambling statements every three years. We will be providing further information to LAs over the coming months as they prepare for their consultations.

We also had a gambling drop-in surgery for LAs where a number of gaming machines were available to explore and ask questions about.

Our strategy 2018 - 2021

Our strategy – which will be of interest to consumers, gambling businesses and others - sets out our focus and commitment in five priority areas:

- protecting the interests of consumers - for example, the Commission expects operators to intervene to make play safe and to protect consumers at risk. There will also be tougher and broader sanctions on operators (including lotteries) who fail to treat customers fairly and make gambling safe.
- preventing harm to consumers and the public – for example, the Commission expects consumers to be provided with more information about gambling and its risks, and better controls to manage their gambling.
- raising standards in the gambling market – for example, the Commission expects effective and independent arrangements to resolve consumer complaints and disputes.

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- optimising returns to good causes from lotteries – for example, the Commission will regulate in a way that delivers a healthy National Lottery for customers and good causes, and plan for the competition for a new licence to be awarded for 2023.
- improving the way the Commission regulates – for example, the Commission will improve the way it taps into consumer and public issues to inform action; it will help industry comply but take precautionary action where necessary, and will give independent and well evidenced advice to government on gambling and its impact.

A video explaining these five priorities in more detail is available on the [Commission's YouTube channel](#).

Gambling is a mainstream leisure activity with 63% of people having gambled in the last year, but the Commission needs to balance consumer choice and enjoyment against the risks and impact gambling can have for individuals and wider society.

The strategy builds on work the Commission has been doing to ensure consumers are protected and reveals the vision for further and faster progress in the five priority areas.

Gambling Commission Chair Bill Moyes (pictured) said: "This is an ambitious strategy to deliver fairer and safer gambling over the next three years. We can only be successful in this by engaging with consumers and by working closely with all our regulatory partners and the industry.

"In the same way that this strategy challenges the industry, we also challenge ourselves – as the regulator – to deliver effective, targeted and innovative regulation.

"At the end of three years we expect to see an industry that strives continuously to raise their standards, treat customers fairly, and protect vulnerable people."

Read the [Gambling Commission Strategy 2018-2021 – making gambling fairer and safer](#).

Gala Interactive to pay £2.3m penalty package for social responsibility failures

- Gala Interactive (Gala) have to pay £2.3m for breaching regulations which protect consumers.
- The action follows the discovery of significant flaws in Gala's dealings with two high-spending customers who gambled away around £1.3m of stolen money.
- Customer A lost £837,545 over 14 months and Customer B lost £432,765 over 11 months. Both lost the money playing Gala's online games.
- Our investigation revealed that Gala failed to effectively interact with the two customers who were displaying problem gambling behaviour. The operator also failed to have in place written policies and procedures that could have curbed the problem gambling behaviour.
- An aggravating factor was that during a [previous case](#) regarding similar failings, Gala told the Commission that customers of concern would be identified sooner and effectively handled. This assurance was made during the same time that Customer A and Customer B were gambling with Gala.
- Customer A was imprisoned for four years for stealing from an employer and Customer B was jailed for four-and-a-half years for acquiring, using or possessing criminal property.

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Gala's penalty includes:

- £1m payment to fund research relating to the causes of problem gambling
- Payment of £1.3m to the victims of Customer A and Customer B.

Gala acknowledged its failings and, in addition to the penalty package, has volunteered to pay a further £200,000 to fund research relating to the causes of problem gambling. Further details are available in [Gala's public statement](#).

Stan James Online to pay £80,000 penalty package for social responsibility and money laundering failures

Following an investigation by the Commission, Stan James Online will pay a penalty package of £80,000 and take steps to improve its anti-money laundering and social responsibility processes.

The case concerned a customer who deposited stolen money with Stan James Online between November 2014 and October 2016. Our enquiries revealed that during this time the operator failed to spot problem gambling behaviour and failed to comply with financial requirements aimed at preventing money laundering.

Stan James Online will return £40,000 to the person whose money was stolen and gambled away and also pay £40,000 in lieu of a financial penalty. Further details are available in [Stan James Online public statement](#).

Letter to operators about online adverts appealing to under 18s

[A joint letter](#) from the Commission, the Advertising Standards Authority, the Committee of Advertising Practice, and the Remote Gambling Association has been sent to online operators regarding amending or removing adverts featuring images that are likely to appeal particularly to under 18s.

Case studies

Arresting problem gambling in the UK prison system – Cheshire pilot

Beacon Counselling Trust, in conjunction with GamCare, Cheshire Constabulary and Mitie Care in Custody carried out a pilot to ascertain the levels of problem gambling amongst those being arrested. They used the Lie/Bet Screening tool in 3 custody suites across Cheshire to ascertain levels of problem gambling at the point of arrest, with appropriate training provided to staff using the screening tool.



From 760 individual screenings the pilot identified problem gambling levels at 13%. The pilot also identified a lack of awareness across the criminal justice system of problem gambling as an issue of significance, along with little or inadequate screening for problem gamblers across offending populations, resulting in low referral numbers for gambling support.

Key recommendations:

- validate this pilot with larger piece of work across the Criminal Justice System
- increase criminal justice staff understanding of problem gambling and awareness of problem gambling and awareness of treatment and support services
- introduce systematic problem gambling screening, assessment and service referral processes across the criminal justice system

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- improve offender's access to targeted interventions according to their level of criminal justice contact and treatment needed.

This pilot has won a Howard League for Penal Reform National Community Award in the Policing and Adults category. The awards celebrate initiatives that work to promote lasting solutions to crime and make communities safer.

LAs and police are encouraged to send case studies for inclusion in future bulletins. Please supply details to info@gamblingcommission.gov.uk

Advice and guidance updates

Risk of privacy screens around gaming machines

LAs are advised that we have recently issued advice to operators regarding the privacy screens around machines, with some additional information for LAs.

A screen or pod around a gaming machine, designed to increase the privacy of the player, could be stopping staff in a gambling premises from effectively monitoring gaming machine play. It is an operator's responsibility to ensure staff are able to effectively monitor gaming machine play for a number of reasons that are part of the operator's licence conditions.

The [Licence conditions and code of practice](#) (LCCP) state: 'Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times'.

Age verification, customer interaction and self-exclusion policies all require operators to take into account the structure and layout of their gambling premises. Operators must be able to evidence to us and their local LA how they have considered the risk to the licensing objectives and implemented effective controls, prior to the introduction of any new machine arrangements.

Where operators are unable to demonstrate effective controls we, or the LA, can use regulatory powers to instruct the removal of any impediments to staff carrying out their responsibilities and investigate any regulatory breaches.

Commercial motivations should never take precedence over the requirement to provide gaming machines in a safe and responsible manner.

Where you encounter atypical gaming machine arrangements, you should consider the means by which gaming machines are supervised (eg line of sight to counter, effective CCTV, mirrors or floor staff) and consider whether that is appropriate for that premises.

Whether amendments to a premises amount to a 'material change' warranting an application to vary the premises licence under s.187 of the Gambling Act is a matter for local determination and it is expected a common sense approach should be adopted (see 7.51 of the [Guidance to licensing authorities](#)).

Reminder re premises applications and plans

Following some recent queries in relation to this topic we are repeating the information previously shared in a Bulletin. Whilst the advice is primarily about new applications and applications to vary a premises licence it equally applies when considering what to take into account that requires a variation should you come across changes to a premises and the operator has not applied to vary.

We are aware that, on a limited number of occasions an operator has applied for a variation to a premises licence in which the accompanying plan of the premises has only contained an outline of the licensed premises and the exit points, without, for example, the location of the gaming machines and counter.

On each occasion that we are aware of, when this was queried with the operator, a more detailed plan has been submitted.

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Whilst the licensing of premises is primarily a matter for local determination and is something which we are unlikely to comment on, save where it is important to establish principle and precedent, we consider it beneficial for both LAs and operators to set out the issues involved and the options available.

The Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) and (Scotland) Regulations 2007 set out what the operator needs to supply as a minimum.

However, this minimum requirement may or may not satisfy a licensing authority in discharging its functions as set out at s153 of the Act which states: 'Principles to be applied:

(1) 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)).

'This Part' in (1) relates to Part 8 - Premises Licences in the Act. Therefore it follows that in determining an application for a premises licence, or an application to vary a premises licence, the LA must establish whether the application is 'in accordance with the relevant code of practice' and this will include social responsibility codes. The LA must also determine whether the application is 'reasonably consistent with the licensing objectives' - such as protecting the young and vulnerable. Should the application and the accompanying plan be insufficient to satisfy these requirements the LA is entitled to ask for more information.

We are aware that at least some LAs have this as a regular requirement when premises applications are submitted.

The premises plan in itself is only one means by which the LA may seek reassurance that the requirements will be met. It may be that conditions attached to the premises licence regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices are a more effective method of doing so. Local circumstances and concerns and the layout of a particular premises may well determine what is most appropriate for an individual application.

LAs with concerns about premises applications and plans should contact info@gamblingcommission.gov.uk

Entertainment bingo & TUNs

LAs are reminded of information in the [May LA Bulletin](#) about participation fees for bingo played as equal chance gaming in pubs and other alcohol-licensed premises. LAs with concerns about alcohol licensed premises playing bingo with stakes and prizes exceeding the £2,000 weekly limit or where there is a possible fee to play, should contact their compliance manager in the first instance.

We are aware that a number of LAs have received notification of a Temporary Use Notice (TUN) for bingo events. For further details of TUNs you are advised to refer to [s14 of the Guidance to Licensing Authorities](#).

In short under a TUN it is required that the gaming is 'intended to produce a single overall winner' although this does not restrict the gaming to only one winner through the course of the tournament.

The qualifying rounds may produce winners whose prize is to progress to the next round. However, the event must be structured as a tournament. Cash games during the event are not permitted, and gaming machines cannot be made available in reliance on a TUN.

If you are in any doubt or receive contrary advice please contact your compliance manager.