

## Appendix 2

### Gambling Act 2005 Statement of Licensing Policy

Consultation representation analysis: consultation period 17<sup>th</sup> September 2009 – 2<sup>nd</sup> December 2009

3 respondents

Ref no.	Respondent	Para	Comments	Appraisal	Response
001	A Hill Env Protection Manager WLBC	N/A	No comments.	No action required.	No change.
002	British Beer & pub Association (BBPA)	General	BBPA runs training schemes to reinforce the management of gaming machines to ensure the minimum age.	Noted.	No change.
			No reason why machine permits should not be granted if complies with GC code of practice.	Noted. Policy reflects the impartial assessment of an application	No change.
			Would like to see outline of an application for permits for more than 2 machines.	Response unjustified. Current guidance remains at 2 machines. Whilst there is some flexibility to increase, local demand does not reflect this requirement.	No change.
003	British Amusement Catering Trades Association (BACTA)	General	Commends format of policy	Noted.	No change.
			The exercise of local authority's discretion is an essential part of regulation under the Act and the principles that are to be applied are to be viewed against the duty of the licensing authority under Section 153 which is to "aim to permit the use of premises for gambling"	Noted. The Policy reflects this approach.	No change.
			It is noted that Gambling Commission Guidance states that 'interested parties' includes trade associations and although BACTA is not of itself an interested person under the terms of the Gambling Act 2005 it does represent, through its members, parties who live sufficiently close to premises to be affected by activities being applied for.	Noted. The Policy reflects this approach.	No change.

		<p>Conditions must not duplicate protection which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be:</p> <ul style="list-style-type: none"> <li>- identification of which of the Licensing Objectives is threatened;</li> <li>- actual evidence of such threat;</li> <li>- reasons why the proposed condition would be effective to address such threat, and</li> <li>- reasons why such threat is not already addressed by existing regulation in the form of operating licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice.</li> </ul>	Noted. The Policy reflects this approach.	No change.
		<p>Licensing authorities are given the power to initiate a review a premises licence. Such reviews should only result from a breach of the licence or a threat to the licensing objectives. Therefore if licence has been granted and the premises operated in accordance with the licence there would be no grounds to review a licence if additional guidance or regulations are issued. A licence should not be subject to retrospective application of guidance.</p>	Noted. The Policy reflects this approach.	No change.
		<p>BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.</p>	Noted. The Policy reflects this approach.	No change.
		<p>While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly</p>		No change.

		<p>observed. It is clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent “drift”. It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice. We note that the Gambling Commission has revised its guidance on the primary activity and the definition of premises. In deciding whether to grant a premises licence, the local authority should be concerned that the application meets the requirements of the regulations. The Gambling Commission will ask an operator how he/she will be providing the gambling before granting the operating licence, e.g. they will ask how the bets will be taken and settled before granting a betting licence. Therefore a licensing authority can be satisfied that a gambling operator is able to provide the main gambling type.</p>		
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--