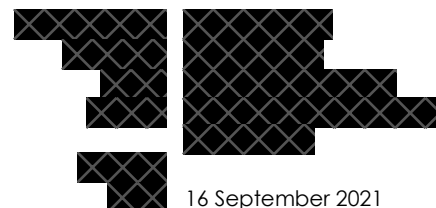


BY EMAIL ONLY  
Licensing Department  
London Borough of Hammersmith and Fulham Council



16 September 2021

Dear Sirs,

### **Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

### **The Betting and Gaming Council**

The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

BGC members support 119,000 jobs and account for £4.5 billion to the Treasury annually in tax. Recent study also showed that BGC members contributed around £7.7 billion in gross value added to the UK economy in 2019.

The gambling industry is integral to the survival of sport. Betting companies spend over £40 million a year on the English Football League (EFL) and its clubs. Horse racing, an industry estimated to be worth £3.5 billion a year to the UK economy and which generates 85,000 jobs receives over £350 million per annum through the Horse Racing Industry Levy, media rights and sponsorship. Darts and Snooker receive in excess of £10 million per annum which represents 90 % of all sponsorship revenue.

The BGC has four principal objectives. These are to –

- **create a culture of safer gambling throughout the betting and gaming sector, with particular focus on young people and those who are vulnerable**
- **ensure future changes to the regulatory regime are considered, proportionate and balanced**
- **become respected as valuable, responsible and engaged members of the communities in which its members operate**
- **safeguard and empower the customer as the key to a thriving UK betting and gaming industry**

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

### **Betting and Gaming in the UK**

Betting and gaming is an incredibly important part of the UK leisure and hospitality industry, employing over 70,000 people, including 50,000 in betting, 13,000 in casinos and 10,000 people directly employed online. The betting and gaming industry contributes £8.7 billion Gross Value Added to the UK economy & contributes £3.2 billion to HM Treasury. In addition, casinos contribute over £120 million to the tourism economy each year.

Betting and gaming is widely enjoyed in the UK. Around 30 million people participate in some sort of gambling, whether that is on the National Lottery, placing a bet in betting shops, playing in casinos or at bingo. The overwhelming majority of these people do so safely without reporting any problems.

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 the number of betting offices (as of March 2020) was 7681. This is reducing every year and has fallen from a figure of 9137 in March 2014. Covid 19 had a devastating effect on the betting industry. The number of betting offices in June 2020 was down to 6461.
- 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.
- In April 2019 a maximum stake of £2 was applied to the operation of fixed odds betting terminals
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable and possibly falling.

### **Problem Gambling**

Problem gambling rates are static or possibly falling. The reported rate of 'problem gambling' (according to either the DSM-IV or the PGSI) was 0.8% of the adult population in 2015, in 2016 it was 0.7% and in 2018 it was 0.5% of the adult population.

This is termed statistically stable but is encouraging that we might finally be seeing a reduction in problem gambling due to the raft of measures that have been put in place recently both by the industry, the Gambling Commission and the Government – from a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures and voluntary restrictions on advertising. These rates have remained broadly the same since the introduction of the Gambling Act 2005.

Whilst one problem gambler is too many, both the Government and regulator both say there is no evidence that problem gambling has increased in recent years.

During the Covid-19 period of lockdown, both the Gambling Commission and Government have acknowledged that problem gambling levels have not increased.

In June 2020, the BGC's five largest members committed to increasing the amount they spend on research, education and treatment (RET) services from 0.1 per cent to 0.25 per cent of their annual revenue in 2020, 0.5 per cent in 2021, 0.75 per cent in 2022 and 1 per cent in 2023. The five operators confirmed they will provide £100 million to GambleAware charity to improve treatment services for problem gamblers.

Rates of 'problem gambling' in the UK are low by international standards – compared to France (1.3%), Germany (1.2%), Sweden (2.2%) and Italy (1.27%).

The BGC supported the creation of the new NHS gambling treatment clinics who have promised 22 clinics, 3 of which are open now. We are pleased that the NHS have committed to work to increase the number of clinics in the UK in addition to existing serviced delivered by Gordon Moody Association and GamCare's 120 treatment centres located throughout the UK.

The BGC welcomes the Gambling Commission's National Strategy was a way of accelerating progress on responsible gambling and tackling problem gambling. Our members are fully committed to meeting this challenge and are working tirelessly to deliver new responsible gambling initiatives including technology that tackles problem gambling and supporting a statutory levy and increased funding for problem gambling clinics.

Underage participating by those aged 11-16 in any gambling activity has declined from 22% to 11% over the past decade; here, 'gambling activity' mainly relates to personal betting (e.g. playing cards with friends) and legal play of lotteries (e.g. participating with consent of parents / guardians). BGC members have a zero tolerance to those under the age of 18 attempting to use their products.

### **Working in partnership with local authorities**

The BGC 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.

### **Differentiation between Licensing Act 2003 and Gambling Act 2005 applications**

When considering applications for premises licences, it is important that a clear distinction is made between the regimes, processes and procedures established by Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities – the regimes, processes and procedures relating to Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, those steps being then converted into premises licence conditions, there is no such requirement in Gambling Act 2005 applications where the LCCP provide a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in Gambling Act 2005 premises licence applications 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 submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%.

When reviewing draft statements of principles in the past, we have 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 BGC 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 Gambling Policy January 2022 - January 2025**

On behalf of the BGC we welcome the repeated statements that decisions made by the licensing authority will be evidence based.

Paragraph 3.6 should be redrafted. This starts with the statement, *“You cannot get a full premises licence until the premises in which you are going to offer the gambling is built.”* This is overly simplistic. The redrafted paragraph should be clear that the Gambling Commission’s Guidance states at paragraph 7.59 that premises licence applications may be made, *“in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must 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 a licensing authority will need to 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.”* Furthermore, paragraph 7.60 of the Gambling Commission Guidance states, *“For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations (SI 2007/459: The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 ...”*

Paragraph 3.10 is the first paragraph under the heading “Planning Considerations.” This paragraph (3.10) should be deleted. It suggests that a policy may be adopted regarding areas where gambling should not be located. Any such policy is likely to be unlawful and is certainly contrary to the s153

“aim to permit” principle detailed in paragraph 1.4. If this was a policy of the planners then it could not be considered as issues of planning permission are not to be considered in the context of a premises licence application (s210 Gambling Act 2005).

Paragraph 4.5 refers to the concept of “primary gambling activity” upon which the Gambling Commission used to provide Guidance but no longer does so. This paragraph should be updated simply to reflect the requirements of SR Code Provision 9.1.1 and 9.1.2 which state that as far as betting or bingo premises licences are concerned,

1. gaming machines may be made available only where there are also, substantive facilities for non-remote betting/bingo (as appropriate), available in the premises.
2. Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
3. Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting/bingo (as appropriate) facilities.

Paragraph 5.8 should be redrafted. The application process does not require an explanation of how the proposals will not exacerbate any problems to individuals or ASB in the vicinity. This is a matter for the local area risk assessment in which an applicant will identify risks posed by the provision of the gambling facilities proposed and detail policies, procedures and control measures in place to mitigate the risk. Furthermore, an applicant will not need to tailor an application nor propose licence conditions. The mandatory and default conditions that attach to all premises licences are designed to be, and usually are, sufficient to ensure operation that is consistent with the licensing objectives. Additional conditions would only be required where there is evidence that the policies, procedures and control measures contained within the risk assessment do not adequately address the risk posed by the provision of gambling facilities proposed.

Paragraph 5.10 suggests a challenge may be made to a risk assessment if the licensing authority feels that there is evidence that local risks have not been taken into consideration. It is not clear how this “challenge” would be made. There is no facility to do this. This paragraph should be clear that if the authority does not feel that risks have not been identified or adequately addressed then an applicant would be invited to reconsider the risk assessment submitted. This paragraph should also acknowledge that an experienced operator is best-placed to identify risks which occur in localities. Gambling premises have always been situated in areas of high footfall or dense population and have always therefore been in areas where there are people and their associated problems. Experienced operators therefore are uniquely placed to assess the risk and tailor policies, procedures and mitigation measure. If an operators risk assessment is deemed inadequate by the authority (bearing in mind the relevant experience of both the authority and the operator) then the authority could lodge a representation to the premises licence application and if there is evidence of a risk to the licensing objectives not adequately addressed by the policies, procedures or mitigation measures outlined in the risk assessment then consideration should be given to additional premises licence conditions.

The following paragraph (5.11) should also be redrafted. The list of bullet points detailing examples of matters that the licensing authority expects to be considered needs therefore only to reflect

matters that are relevant to the licensing objectives. For example, issues relating to the night time economy or of *“youths participating in anti-social behaviour eg graffiti/tagging or underage drinking”* have no bearing whatsoever on any assessment of risk to the licensing objectives posed by the provision of gambling facilities. Similarly, *“gaming trends that may mirror days for financial payments such as pay days or benefit payments”* can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct and references to any issue that is not relevant to the licensing objectives should be removed.

Paragraph 5.14 should be redrafted such that opening hours for premises should be specified only in applications where hours are not already specified by the default conditions.

### **Conclusion**

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope that these comments above are useful. The BGC will work with you to ensure that its members’ operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,

