

By Email Only
Licensing Section
Hammersmith and Fulham Council

Please ask for: Richard Taylor
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Email: rjt@gosschalks.co.uk
Our ref: RJT / ADS / 123267.00004
#GS5910482
Your ref:
Date: 14/11/2024

Dear Hammersmith and Fulham Council,

Re: Gambling Act 2005 Statement of Principles for Gambling

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 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.

The BGC has four objectives. These are to:

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

BGC members support 110,000 jobs, generate £4.2 billion in taxes and contribute £7.1 billion to the economy in GVA (Gross Value Added), according to a report by EY in 2022.

Betting shops alone also support 42,000 jobs on the UK's hard-pressed high streets, contributing £800 million a year in tax to the Treasury and another £60m in business rates to local councils. Further, according to ESA Retail report 89% of betting shop customers go on to spend money in other high street establishments, further cementing the important role of betting shops in the local economy.

BGC members also support the UK's hospitality, tourism and leisure industry through our casinos – there are currently 116 across the UK. Overall, we are a major component of world leading British technology, where our members have founded tech powerhouses in many cities throughout the UK.

Betting is a hugely popular British leisure activity. Each month, around 22.5 million adults in the UK have a bet - whether it's buying a lottery ticket, having a game of bingo, visiting a casino, playing online or having a wager on football, horseracing and other sports - and the overwhelming majority do so perfectly safely and responsibly.

BGC members are proud to support UK sport, from the grassroots to the elite level. The industry contributes around £350 million to racing in levy, media, and sponsorship rights each year, £40 million to the EFL (English Football League), and £12.5 million to snooker, darts, and rugby league.

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

Any consideration of gambling licensing at the local level should also be considered within the broader context.

The raft of measures recently put in place by the industry (in terms of protecting players from gambling-related harm), the Gambling Commission, and the Government (a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures, and voluntary restrictions on advertising) have contributed to problem gambling rates now being lower than they were at the passage of the 2005 Gambling Act (see further details on problem gambling rates below).

In addition, a range of further measures will be implemented imminently following the Government's White Paper, published in April 2023. These include: financial risk checks for those at risk of gambling harm, changes to the way operators market to their customers, changes to online game design which will remove certain features, the introduction of a mandatory levy for research, prevention and treatment (RPT) activities, an Ombudsman to adjudicate on customer redress and the introduction of mandatory stake limits on online slots, bringing the maximum stakes online in line with land based casinos.

It should also be noted that:

- 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 2023) was 5,995. This is reducing yearly and has fallen by 28% since March 2019 – equating to 2,309 betting shop closures in just four years.
- 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 show that problem gambling rates in the UK are stable.

Problem Gambling

A point often lost in the debate about the future of gambling regulation is that problem gambling rates in the UK are low by international comparison.

The most recent “Gold standard” NHS (National Health Service) Health Survey found that problem gambling rates among adults are 0.4 per cent – the rate was 0.5 per cent in 2018. In comparison to other European countries, problem gambling rates in the UK are low. The problem gambling rate is 2.4 per cent in Italy, 1.4 per cent in Norway, and 1.3 per cent in France.

Both the Gambling Commission and the Government have acknowledged that problem gambling levels have not increased. However, one problem gambler is one too many, and we are working hard to improve standards further across the regulated betting and gaming industry.

In June 2020, the BGC’s largest members committed to increasing the amount they spend on RPT (Research, Prevention and Treatment) services from 0.1 per cent to 1 per cent in 2023. This was expected to raise £100 million but they have gone further and will have donated £110 million by 2024.

In the White Paper, the Government committed to introducing a statutory RPT (Research, Prevention and Treatment) levy, which would apply to all gambling licensees (excluding the national lottery). This levy is expected to raise £100m annually by 2026/2027.

The BGC also funds the £10 million Young People’s Gambling Harm Prevention Programme, delivered by leading charities YGAM and GamCare. As of March last year (2023), it has educated over 3 million children.

Advertising and Sponsorship

All betting advertising and sponsorship must comply with strict guidelines, and safer gambling messaging must be regularly and prominently displayed.

The Government has previously stated that there is “no causal link” between exposure to advertising and the development of problem gambling, as stated in a response by then Minister of State at DCMS, in June 2021. The Gambling Review White Paper, in relation to advertising, restated that there was “little evidence” of a causal link with gambling harms or the development of gambling disorder.

The Seventh Industry Code for Socially Responsible Advertising, adopted by all BGC members, adds a number of further protections in particular for young people. New measures include ensuring that all social media ads must target consumers aged 25 and over unless the website proves they can be precisely targeted at over-18s. In addition to raising advertising standards for young people, this

code, which came into force on 1 December 2023, extended the previous commitment that 20% of TV and radio advertising is devoted to safer gambling messaging to digital media advertising.

Under the 'whistle-to-whistle' ban, ads cannot be shown from five minutes before a live sporting event until five minutes after it ends, before the 9 p.m. watershed. Research by Enders Analysis found that in its first 12 months in operation, the ban reduced the number of TV betting adverts seen by children by 97% at that time. Overall, the number of gambling adverts viewed by young people also fell by 70% over the entire duration of live sports programmes. At the same time, the ban also reduced the number of views of betting ads by 1.7 billion during its first five months in operation.

BGC members also continue to abide by the stringent measures established by advertising standards watchdogs. These measures are in stark contrast to the unsafe, unregulated black market online, which has none of the safer gambling measures offered by BGC members, including strict age-verification checks. Any withdrawal of advertising would simply level the playing field with illegal operators thus providing opportunities for those operators to peel off customers from the regulated markets.

Misleading/ambiguous premises signage

There are increasing numbers of premises (usually Adult Gaming Centres) which describe themselves on their shopfronts and external signage as casinos despite these premises not being permitted to operate as a casino.

Section 150 Gambling Act 2005 creates five separate classes of premises licences – the operation of a casino (a casino premises licence), the provision of facilities for the playing of bingo (a bingo premises licence), making category B gaming machines available for use (an adult gaming centre premises licence), making category C gaming machines available for use (a family entertainment centre premises licence) and the provision of facilities for betting (a betting premises licence). Whilst casinos are permitted under a casino premises licence to provide bingo and betting facilities, the holder of an adult gaming centre premises licence may not offer casino facilities.

In order to avoid any ambiguity, the draft statement of principles should be clear that premises must not display signage which may suggest that the premises have a different premises licence to the one held.

Differentiation between Licensing Act 2003 and Gambling Act 2005 applications

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

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

It should continue to be the case that additional conditions in the Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances with 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 most cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry employs a policy called “Think 21”. This policy is successful in preventing underage gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission shows that ID challenge rates are consistently around 85%. Following the publication of the Gambling Commission’s response to their consultation on age verification on premises, all gambling venues will be moving to a “Think 25” policy from 30th August 2024.

Since Serve Legal began working with the gambling sector in 2009, the industry has now become the highest performing sector across all age verification testing. Across thousands of audits, there was an average pass rate of 91.4 per cent (2024 data). For casinos, there is a near perfect pass rate in the last period of 98%. When comparing Serve Legal audit data between members of the BGC and comparative age verification audit data in the Alcohol and Lottery sector we see how the gambling sector is performing between 10-15 per cent higher every year.

It should be noted that the Executive Summary of the Gambling White Paper stated that when parliamentary time allows, the Government will align the gambling licensing system with that for alcohol by introducing new powers to conduct cumulative impact assessments.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no precise requirements regarding the need for evidence in the revised licensing policy statement. If additional licence conditions are more commonly applied, this would increase variation across licensing authorities and create uncertainty amongst operators regarding licensing requirements, overcomplicating the licensing process for operators and local authorities.

Working in partnership with local authorities

The BGC is fully committed to ensuring constructive working relationships between betting and gaming operators and licensing authorities and that problems 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.

Considerations specific to the Gambling Act 2005 Statement of Licensing Principles

Paragraph 6.5 creates the concept of Gambling Vulnerability Zones which do not exist within the statute, regulations, or guidance. The justification for these Gambling Vulnerability Zones is contained within the local area profile which contains no evidence of a specific gambling related problem in any area of the borough but instead, an arbitrary approach to data available, the extrapolation of national figures and estimates. The crime figures and “analysis” contained within the local area profile are similarly arbitrary and do not stand up to scrutiny. For example, it appears that bicycle theft, theft from a motor vehicle are classed as crimes, the source of which is gambling

whereas it is more likely that these are criminal offences that took place in the vicinity of a gambling premises which was then used as a geographical locator when logging a crime. Without any evidence of crimes for which gambling is the source or directly attributable to gambling, the figures are worthless and the concepts of Gambling Vulnerability Zones based upon them are seriously flawed. Accordingly the Gambling Vulnerability Zone section should be deleted and applications simply determined on their own merits.

Similarly the adoption of the concept of Cumulative Impact Areas from Licensing Act 2003 is flawed and should be deleted from the draft statement of principles. The issue of location is a planning issue and matters of planning are not considerations for the Licensing Authority nor its Gambling Act 2005 subcommittee (s210 GA 2005). There is no evidence that stands up to any scrutiny that the proximity of gambling premises to others within the Borough causes any problems and without that evidence, sections 6.8 to 6.10 inclusive should be deleted. Furthermore, the “presumption of refusal” contained within paragraph 6.10 is directly contrary to the licensing authority’s duty to aim to permit the use of premises for gambling contained within s153.

These creations are both wholly unnecessary and appear to be created as justifications for refusal of applications against a backdrop of falling crime (even on the flawed figures provided) and no evidence of any gambling related harm in the Borough. These paragraphs should be removed from the statement of principles leaving the requirement of SR Code Provision 10 that operators/applicants must assess the local risks posed by the provision of gambling facilities at their premises (with reference to the council’s local area profile) and have policies, procedures and control measures to mitigate those risks and that each application will be considered on its own merits.

Paragraph 6.13 contains a bullet point list of factors that the council expects to be considered when conducting a local risk assessment. The bullet point list should be redrafted with matters irrelevant to an assessment of risk to the licensing objectives omitted. For example, issues such as street drinking, youths participating in ASB, drug dealing are either issues of nuisance or crime which is not associated with gambling nor for which gambling is the source. These references must therefore be deleted as they are not relevant to any assessment of risk to the licensing objectives.

Conclusion

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope these comments above are helpful. 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,



GOSSCHALKS LLP

The Gambling Business Group's comments on Hammersmith & Fulham's Gambling Policy 2025 - 2028

1. The Gambling Business Group's comments relate to one section of the proposed policy and therefore we are responding in writing and not completing the online response form, but we trust that the views of our members will be considered.
2. The Council has a detailed Local Area Profile and a Gambling Policy which promotes a risk-based approach to regulating gambling:

"Irrespective of the area where an application is made, this Authority will always expect applicants to fully explain in their local area risk assessment how their proposal will not exacerbate any problems to individuals living in the vicinity or exacerbate any ASB problems within the vicinity generally. The local area risk assessment enables an applicant to identify risks posed by the gambling facilities provided and to detail policies, procedures and control measures in place to mitigate the risk"

3. Given this risk-based approach, it is of grave concern that the Policy Statement has a section (6.5-6.10) on gambling vulnerability zones and cumulative impact areas where the council's policy states:
"We will typically refuse any applications for AGC, Betting Shops and Bingo premises, except" in exceptional circumstances"
4. Firstly this presumption to refuse does not meet the aim to permit principle within Section 153 of the Gambling Act 2005.
5. Secondly, having a risk-based approach should be sufficient for applicants to understand that the Licensing Authority will expect the local risks to be reviewed and mitigated.
6. As we are sure the Council is aware Westminster City Council's draft gambling policy in 2021 originally stated the Council would refuse applications within a Gambling Vulnerability Zone that sought hours beyond those in the council's hours policy. The Council had to amend its policy on this and other grounds where it contravened the "aim to permit".
7. Of further concern to our members is the inclusion of cumulative impact areas.
8. In April 2023, the previous Government published a policy paper "High Stakes Gambling Reform for the Digital Age". A proposal in Chapter 6 "Land Based Gambling" states:

"We will also bring the licensing regime into line with that for alcohol by legislating to introduce a formal system for cumulative impact assessments (CIAs) when Parliamentary time allows."

9. Since that time there has been NO progress on this proposal, which requires primary legislation, either by the previous or current Government.
10. The reference to cumulative impact areas in the Council's Policy Statement, has the same intended use and purpose as cumulative impact assessments, therefore the council will be acting ultra vires if it retains the proposed concept of cumulative impact areas with presumption to refuse applications in these areas. (6.8-6.10).
11. Where the risks have been mitigated and the Licensing Authority is satisfied that the application is in accordance with the Gambling Commission's Codes of Practice and Guidance to Licensing Authorities, that it is reasonably consistent with the Licensing Objectives and that it meets all matters identified within the Council's Statement of Principles for Gambling, then the presumption should be to grant the application, not refuse it.

The Gambling Business Group is the leading representative body for the cross-sector, land-based section of the gambling industry. We are proud to have a broad membership base, comprised of Adult Gaming Centres (AGCs), Bingo, Betting, Arcades, Machines and Suppliers, alongside supporting businesses including legal, licensing, finance and consultancy organisations.

Charlotte Meller
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22 November 2024

Ref: 017449/00745

Doc Ref: 547216

Hammersmith & Fulham Council
Licensing Team
Town Hall
King Street
London
W6 9JU

Dear Sirs

Hammersmith & Fulham – Review of Council’s Statement of Gambling Policy 2025

We act for MERKUR Slots UK Limited ('MERKUR') and we write further to our response to Hammersmith & Fulham’s proposed Gambling Policy, submitted via your online survey on 22 November 2024.

Our concerns relate to questions 5, 6 and 7 of the online survey, namely the proposed policies to:-

1. Refuse any new adult gaming centres, betting shops or bingo premises in the identified gambling vulnerability zones;
2. Refuse any new adult gaming centres, betting shops or bingo premises in the identified cumulative impact areas as outlined in the new Local Area Profile; and
3. Reduce the terminal hour for Adult Gaming Centres and Bingo Premises to 22:00.

MERKUR: Background

MERKUR hold an Operating Licence issued by the Gambling Commission (licence number 3266). Details on their operating licence can be viewed on the Gambling Commission’s public register which can be viewed here, <https://www.gamblingcommission.gov.uk/public-register/business/detail/3266>.

MERKUR operate adult gaming centre and bingo licensed venues across the UK, including Hammersmith & Fulham. MERKUR operate the following bingo licensed venues in the Hammersmith & Fulham area:

1. Merkur Slots, 96-98 Uxbridge Road, London, W12 8LR;
2. Merkur Slots, 272 North End Road, London, SW6 1NJ; and
3. Merkur Slots, 84-86 King Street, London, W6 0QW.

List of partners and associates available on request

Address: 37 Stoney Street, The Lace Market, Nottingham NG1 1LS | **T:** 0115 953 8500 | **F:** 0115 953 8501 | **W:** popall.co.uk

Authorised and Regulated by the Solicitors Regulation Authority (SRA no. 78244)

Refusal of new adult gaming centres, betting shops and bingo premises in gambling vulnerability zones and cumulative impact areas

At 6.9 of the proposed policy, the Authority propose that *'within Gambling Vulnerability Zones and the three Cumulative Impact Areas there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises.'*

The policy proposed is unlawful as it contradicts the requirement for Licensing Authority's to 'aim to permit'. Licensing Authorities do not have the discretion under the Gambling Act 2005 to state as a matter of policy, that they will refuse applications. Section 153 of the Gambling Act 2005 requires licensing authorities in exercising their functions to 'aim to permit' the use of premises for gambling. This creates a presumption in favour of granting applications and therefore prohibits Hammersmith & Fulham from opposing any policy to refuse applications, in this case based on location of the premises.

No context is provided as to what information in the Local Area Profile suggests that the location of gambling premises is undermining one or more of the licensing objectives. At 6.7 of the proposed policy, it is stated that the highest levels of crime and anti-social behaviour in the borough is recorded in the identified cumulative impact zones. No evidence is provided to attribute crime reported to Adult Gaming Centres, Betting shops or Bingo premises. We are not aware that any such evidence exists.

The Local Area Profile takes account of risk predominately relating to the operation of premises other than Bingo and Adult Gaming Centre licensed venues. The Local Area Profile does not refer to evidence of issues with Bingo or Adult Gaming Centre venues within the Borough. The Local Area Profile does not link the socio-economic findings to the provision of gambling in the types of licensed venue in question.

This proposal must be removed from the proposed policy.

Reduction of hours of Adult Gaming Centres and Bingo Premises to 22:00

At 6.15 of the proposed policy, the Authority propose that *'the licensing authority also suggests that that the terminal hour for AGC and Bingo premises should be limited to 22:00. Any AGC such premises wishing to operate after this time would need to provide a robust risk assessment and also commit to employing more than one member of staff after 22:00.'*

Once more, this proposal is unlawful as it is not consistent with the Gambling Act 2005 'aim to permit' as outlined above. This creates a presumption in favour of granting applications and therefore prohibits Hammersmith & Fulham from opposing any policy to refuse applications, in this case based on hours of the premises.

There is no evidence provided to justify the hours included within the policy. The hours proposed are contrary to the default conditions enacted by Parliament. Bingo operators are permitted by Parliament, as a right under the Gambling Act 2005, to open 24 hours to provide gaming machines and provide the provision of Bingo between the hours of 09:00 and 00:00.

Hammersmith & Fulham cannot lawfully impose such a policy. The policy is prescriptive, disproportionate and is not substantiated with evidence of issues relating to Bingo or Adult Gaming Centre licensed premises to justify the proposed policy. This is an arbitrary limit proposed without evidence or reason and fails to consider each application on its own merits.

The policy has been prepared without engagement with the with industry. We are not aware of issues with the Bingo and Adult Gaming Centre licensed premises within Hammersmith & Fulham which would substantiate such a policy. If the Authority have concerns regarding the operation of Bingo and Adult gaming Centre premises upholding the licensing objectives, they have the power of review.

This proposal should be struck from the draft policy.

Yours faithfully



Poppleston Allen

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From: Narinder Dhanjal <nindi.dhanjal@evokeplc.com>

Sent: 22 November 2024 15:56

To: Licensing HF: H&F <licensing@lbhf.gov.uk>; Perez-Trillo Cristina: H&F <Cristina.Perez-Trillo@lbhf.gov.uk>

Subject: FW: Hammersmith and Fulham - Challenge to Sections on "Gambling Vulnerability Zones" and "Cumulative Impact Areas"

Importance: High

Some people who received this message don't often get email from nindi.dhanjal@evokeplc.com. [Learn why this is important](#)

We appreciate the opportunity to provide feedback on the proposed Gambling Policy 2025 -2028, specifically Sections 6.5–6.10 concerning "Gambling Vulnerability Zones" (GVZs) and "Cumulative Impact Areas" (CIAs). While we recognize the Council's commitment to safeguarding the community, we have concerns that these sections may exceed the statutory powers granted under the Gambling Act 2005 (GA 2005) and may not align with recent governmental guidance.

1. Alignment with the Gambling Act 2005

The GA 2005 outlines three primary licensing objectives:

- Preventing gambling from being a source of crime or disorder.
- Ensuring that gambling is conducted fairly and openly.
- Protecting children and vulnerable persons from being harmed or exploited by gambling.

Section 153 of the Act mandates that licensing authorities should "aim to permit" gambling activities, provided they are consistent with these objectives. The introduction of GVZs and CIAs, with presumptions to **refuse** applications, may conflict with this statutory duty. Policies that impose blanket refusals without robust, evidence-based justification could be seen as unlawfully restricting the discretion that should be applied on a case-by-case basis.

2. Recent Governmental Guidance

The Gambling White Paper published in April 2023, titled "High Stakes: Gambling Reform for the Digital Age," emphasizes the need for evidence-based and proportionate measures in gambling regulation. It acknowledges the importance of local authorities considering local circumstances but cautions against overreach that could stifle legitimate business operations without clear justification. Subsequent government responses have reinforced this stance, highlighting that while protecting vulnerable individuals is paramount, policies must not impose unnecessary burdens on operators or deviate from the statutory framework established by the GA 2005.

The UK Government also acknowledged that introducing CIA policies would require amendments to existing laws. In its response to the Culture, Media and Sport Select Committee's report on gambling regulation, the Government stated: "The introduction of cumulative impact assessments will require an amendment to primary legislation, and this will be done when parliamentary time allows."

3. Overreach of Local Authority Powers

The concept of Cumulative Impact is recognized under the Licensing Act 2003 for alcohol licensing but does not have a statutory basis in gambling law. Gerald Gouriet KC, in his article "Cumulative Impact Policies: Gambling Vulnerability Zones and Cumulative Impact Areas," notes that applying such policies to gambling premises conflates separate legal regimes. The "aim to permit" principle under Section 153 requires each application to be judged on its merits, not predetermined by clustering policies.

Moreover, Westminster City Council when consulting on their previous policy in 2021 proposed similar restrictions but removed most following significant concerns from operators and legal advisors, recognizing the potential legal risks of such policies.

4. Evidence-Based Policy Making

The proposed policy appears to rely heavily on general socio-economic data (e.g., deprivation indices, income levels, lone-parent households) to justify its measures. While there may be some correlation between socio-economic deprivation and gambling harm, it is critical to note that correlation does not imply causation. The roots of gambling harm are varied and not fully understood, even among academics and clinicians. Socio-economic factors alone should not be regarded as a direct cause of gambling harm, and reliance on these metrics risks oversimplifying a complex issue.

The GA 2005 and the Gambling White Paper emphasize that local risk assessments must be grounded in robust, gambling-specific evidence. Broad socio-economic metrics, while informative, do not directly demonstrate that gambling premises inherently undermine the licensing objectives. Moreover, Gambling Commission and your own Local Authority data shows that the number of gambling premises in Hammersmith and Fulham has decreased from 34 to 30 since the last consultation, suggesting that concerns over clustering may lack evidential support and undermining the justification for stringent measures like GVZs and CIAs.

5. Impact on Operators and Economic Viability

The presumptions in GVZs and CIAs could undermine the viability of existing operators and deter new entrants by imposing disproportionate burdens inconsistent with the Act. Operators already adhere to stringent requirements under the Licence Conditions and Codes of Practice (LCCP), including:

- Conducting local risk assessments tailored to specific vulnerabilities.
- Implementing social responsibility measures like self-exclusion schemes and spending limits.
- Establishing robust crime and disorder prevention strategies.

These existing safeguards are designed to mitigate risks without introducing sweeping refusals that could drive gambling underground or into less regulated channels, contrary to the licensing objectives.

Proposed Amendments

To ensure the policy aligns with the GA 2005 and recent governmental guidance, we propose the following amendments:

- Remove presumptions to refuse applications in Sections 6.6 and 6.10.
- Commit to evaluating applications on a case-by-case basis, grounded in robust, gambling-specific evidence.
- Clarify that clustering or cumulative impact alone does not justify refusal unless clearly linked to gambling-specific harm within the licensing objectives.
- This approach ensures compliance with statutory requirements, protects vulnerable individuals, and avoids undue burdens on lawful operators.

Conclusion

While we support the Council's dedication to protecting the community, the introduction of "Gambling Vulnerability Zones" and "Cumulative Impact Areas," as currently proposed, may exceed the statutory powers under the GA 2005 and contradict recent governmental guidance emphasizing proportionality and evidence-based policymaking. Furthermore, under the current legal framework, local authorities do not have the statutory authority to implement cumulative impact policies for gambling premises without changes to primary legislation. This fundamental legal barrier, combined with the reduction in gambling premises operating in Hammersmith and Fulham's jurisdiction from 34 to 30 since the last consultation, underscores the need to remove these presumptions and commit to case-by-case assessments in line with the licensing objectives

We kindly request an acknowledgment of receipt of this response for our records. Should there be any questions or need for further clarification, please do not hesitate to contact us.

Yours faithfully

Nindi Dhanjal
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evoke

From: Elizabeth Speed <espeed@novomatic.co.uk>
Sent: 22 November 2024 15:27
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Cc: Tracey Rose <Tracey.Rose@Luxury-Leisure.co.uk>
Subject: The Gambling Act 2005 - Review of Hammersmith and Fulham Council's Statement of Gambling Policy

Dear Team

Gambling Act 2005 – Statement of Principles Consultation

Thank you for the opportunity to make comments in relation to the above consultation. On behalf of Luxury Leisure and Talarius Ltd., we make the following points in relation to the consultation draft (the "Draft"):-

1. As the Authority appreciates, 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.

While the draft references the Code under the section dealing with Enforcement, (section 10), the Code has much broader application and we suggest that a reference to include the above is made at the beginning of the Statement and not simply in the Enforcement section.

2. Para 3.8: While we acknowledge that safeguarding against child sexual exploitation is a commendable aim, this has no direct relevance to the gambling Licensing Objectives. There is no evidence to support the inclusion of this content within the policy statement. The Authority should recognize that the principal duty is to protect children and other persons from the potentially harmful effects of gambling, as opposed to wider societal harm. While we agree that licence holders and all businesses throughout society should be aware of the risks of child sexual exploitation, commentary in this regard is not relevant to the objectives of the Gambling Act 2005.
3. Para 5: We note that the current para 5.1 has been deleted. The reason is not apparent but we believe it is important to reinstate these provisions which will apply in any event, but the inclusion will make it clear. We suggest they are retained.
4. Para 5.5: While we note the sample conditions, we do not believe that it is appropriate to include references to matters such as speakers and

microphones. Those are matters which, with respect, are more appropriately dealt with under other legislation and policies such as those applicable to the planning regime. As the GLA makes clear, nuisance is not a matter for the Gambling Act 2005 – see GLA paragraph 5.5 (*“In the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.”*)

5. Paras 6.5 - 6.10. We strongly object to these paragraphs which would be open to legal challenge. The introduction of these new areas of policy, such as that to refuse new applications save in exceptional circumstances, would contravene the overarching duty to aim to permit set out in s153 of the Act. Further, such paragraphs and approach as is proposed would amount to a pre-judgment of individual applications.
6. Paras 6.8 - 6.9: The reference to “clustering” seems to have more to do with matter of “demand” than anything else – and as the Authority will appreciate, demand is expressly not a consideration when dealing with applications for a premises licence. Further, the vague reference to “clustering or cumulative impact” currently undermining one or more of the licensing objectives” is made without reference to any particular objective nor to any evidence. Again, fundamentally, the obligation placed on the Authority to aim to permit applications would be contravened by such a policy. That obligation was imposed by parliament, and it is not for the Authority to seek to disapply it. Indeed, it would also seem to directly conflict with the provisions of paragraph 6.13 of the draft.
7. Para 6.13. We note the points that the draft suggests applicants consider. We suggest however that the issue of the impact of Covid pandemic is obsolete.
8. Para 6.14. Many of the draft conditions are already covered in LCCP or are Mandatory conditions and as such it is inappropriate for them to be repeated as licence conditions.
9. Para 6.16 We strongly object to this paragraph. The suggestion that the Authority can simply ignore the fact that Parliament decided on what, if any, hours to impose on AGCs as a default condition would be wrong and indeed such as step would likely be ultra vires. The paragraph also conflates the issue of default hours and appropriate conditions for late opening venues.. The latter are a legitimate point of discussion and consideration as part of an application.
10. Para 6.17: The LCCP has been updated and all operators of AGCs must now take part in age verification testing.

We hope that you find the above helpful and we would be happy to talk thorough any of the points or answer any questions you might have.

Yours faithfully,

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21 November 2024

Ref: 017449/00745

Doc Ref: 547216

Hammersmith & Fulham Council
Licensing Team
Town Hall
King Street
London
W6 9JU

Dear Sirs,

Hammersmith & Fulham – Review of Council’s Statement of Gambling Policy 2025

We act for The Bingo Association and write further to our response to Hammersmith & Fulham’s proposed Gambling Policy, submitted via your online survey on 21.11.2024.

Our concerns relate to questions 5, 6 and 7 of the online survey, namely the proposed policies to:-

1. Refuse any new adult gaming centres, betting shops or bingo premises in the identified gambling vulnerability zones;
2. Refuse any new adult gaming centres, betting shops or bingo premises in the identified cumulative impact areas as outlined in the new Local Area Profile; and
3. Reduce the terminal hour for Adult Gaming Centres and Bingo Premises to 22:00.

The Bingo Association: Background

The Bingo Association represents 580 licensed bingo premises in Great Britain which is 98% of all licensed bingo premises and 100% of all Licensed Bingo Clubs.

The majority of those member premises are Licensed Bingo Clubs which generate 90% of all GGY and profits. The Bingo Club is attended by 28.4 million visits a year and employs approximately 10,000 people (pre-Covid).

Bingo is a low-risk social gambling activity according to the 2018 Health Survey, with many customer prevention strategies in place to protect customers, none more crucial than its voluntary membership-only requirement which underpins its self-exclusion, age verification and low-key marketing and communications approach.

List of partners and associates available on request

Address: 37 Stoney Street, The Lace Market, Nottingham NG1 1LS | **T:** 0115 953 8500 | **F:** 0115 953 8501 | **W:** popall.co.uk

Authorised and Regulated by the Solicitors Regulation Authority (SRA no. 78244)

There is much research that supports the social and cultural value of Licensed Bingo Clubs. To use but one source, 'bingo is a social, community, activity for many people, and in many places, it attracts a distinctive demographic of players. (The Bingo Project, University of Kent, Economic and Social Research Council, 2015). The Bingo Association Code of Conduct, which is a condition of membership, can be provided on request.

Refusal of new adult gaming centres, betting shops and bingo premises in gambling vulnerability zones and cumulative impact areas

At 6.9 of the proposed policy, the Authority propose that *'within Gambling Vulnerability Zones and the three Cumulative Impact Areas there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises.'*

The policy proposed is unlawful as it contradicts the requirement for Licensing Authority's to 'aim to permit'. Licensing Authorities do not have the discretion under the Gambling Act 2005 to state as a matter of policy, that they will refuse new Bingo applications. Section 153 of the Gambling Act 2005 requires licensing authorities in exercising their functions to 'aim to permit' the use of premises for gambling. This creates a presumption in favour of granting applications and therefore prohibits Hammersmith & Fulham from opposing any policy to refuse applications, in this case based on location of the premises.

No context is provided as to what information in the Local Area Profile suggests that the location of bingo premises is undermining one or more of the licensing objectives. At 6.7 of the proposed policy, it is stated that the highest levels of crime and anti-social behaviour in the borough is recorded in the identified cumulative impact zones. No evidence is provided to attribute crime reported to Bingo premises and we are not aware that any such evidence exists.

The Local Area Profile takes account of risk predominately relating to the operation of premises other than Bingo licensed venues. The Local Area Profile does not refer to evidence of issues with Bingo premises within the Borough. The Local Area Profile does not link the socio-economic findings to the provision of gambling in Bingo Licensed Venues.

This proposal must be removed from the proposed policy.

Reduction of hours of Bingo Premises to 22:00

At 6.15 of the proposed policy, the Authority propose that *'the licensing authority also suggests that the terminal hour for AGC and Bingo premises should be limited to 22:00. Any AGC such premises wishing to operate after this time would need to provide a robust risk assessment and also commit to employing more than one member of staff after 22:00.'*

Once more, this proposal is unlawful as it is not consistent with the Gambling Act 2005 'aim to permit' as outlined above. This creates a presumption in favour of granting applications and therefore prohibits Hammersmith & Fulham from opposing any policy to refuse applications, in this case based on hours of the premises.

There is no evidence provided to justify the hours included within the policy. The hours proposed are contrary to the default conditions enacted by Parliament. Bingo operators are permitted by Parliament, as a right under the Gambling Act 2005, to open 24 hours to provide gaming machines and provide the provision of Bingo between the hours of 09:00 and 00:00.

Hammersmith & Fulham cannot lawfully impose such a policy. The policy is prescriptive, disproportionate and is not substantiated with evidence of issues relating to Bingo licensed premises to justify the proposed policy. This is an arbitrary limit proposed without evidence or reason attributable to Bingo licensed venues. The policy fails to consider each application on its own merits.

The policy has been prepared without engagement with the with industry. We are not aware of issues with the Bingo licensed premises within Hammersmith & Fulham which would substantiate such a policy.

If the Authority have concerns regarding the operation of Bingo premises upholding the licensing objectives, they have the power of review.

This proposal should be struck from the draft policy.

Yours faithfully



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The Licensing Team
Town Hall
King Street
Hammersmith
W6 9JU

By email licensing@lbhf.gov.uk

Our ref AW/KL/ENT001-7-0/7215

Your ref

4 November 2024

Dear Sirs

Consultation on Gambling Act 2005 Policy January 2025-2028 Hammersmith

We are instructed by the Entain Group of 1 Stratford Place, Montfichet Road, London, E20 1EJ to make a comment/representation with regard to your Gambling Act 2005 draft Statement of Policy and Principles 2025-2027.

The Entain Group (“Entain”) is one of the largest operators of betting offices (Gambling Act 2005 betting Premises Licences) in the UK under the Ladbrokes and Coral brands. The total number of Ladbrokes shops in the UK is 1,285 and the number of shops operating as Coral is 1,033. In the London Borough of Hammersmith, Entain has 2 Betting Premises Licences:

1. Ladbrokes - 16 Hammersmith Broadway, London, W6 7AB
2. Ladbrokes - 1 King Street, London, W6 9HR

Background

We are aware that as a Licensing Authority you have a duty under the Gambling Act 2005 to publish a Statement of Policy at least every 3 years giving the principles which the Authority proposes to apply when exercising its statutory functions under the Act.

As you will also be aware and confirm in your draft policy, Premises Licences are subject to the requirements set out in the Gambling Act 2005 and are also subject to the default conditions set out in the Act.

In exercising your functions under the Gambling Act 2005, you as a Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Gambling Act 2005:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

We are instructed to make comments/representation specifically with regard to Paragraph 6.9 and limit our representations to that section.

Comment/Representation

As you will be aware, any applicant for a Premises Licence must hold a relevant Operating Licence issued by the Gambling Commission. It is a prerequisite of an application for a Premises Licence and the application form requires confirmation of the Operating Licence Number or the date that the application for the Operating Licence was submitted.

Any application for an Operating Licence must include policies and procedures which promote the licensing objectives and the Licence Conditions and Codes of Practice. The policies and procedures submitted will be looked at by the Gambling Commission who will only grant an Operating Licence if satisfied that the policies and procedures provided are fit for purpose. The purpose of the policies and procedures is of course to promote and be consistent with the licensing objectives.

Entain have in place detailed procedures which are not only consistent with the licensing objectives but promote the licensing objectives as well. Those policies and procedures have been in place since the implementation of the Gambling Act on 1 September 2007 and have continued to evolve since that date. Entain's policies and procedures are best practice and not simply the bare minimum required. For example they include specific suicide training for support teams; specific suicide training has not been assessed as a requirement either by our client or by the Gambling Commission for staff at shop level.

Entain also have in place extensive Local Area Risk Assessments, tailored to each individual site, pursuant to the Licensing Conditions Codes of Practice: Social responsibility code 10.1.1, and Ordinary code 10.1.2.

Representation on Paragraph 6.9

Summary

Paragraph 1.3 of the draft policy, you set out the Licensing Objectives. In Paragraph 1.4 of the draft policy, you refer to Section 153 of the Gambling Act 2005 and the principles to be applied.

In Section 3 “General Principles” of the draft policy you refer to the Gambling Act and any associated regulations applying to Premises Licences as well as specific conditions set out in the regulations.

In Section 6 of the draft policy, you refer to the Local Area Profile and in 6.5 to areas which you describe as “Gambling Vulnerability Zones”.

The subheading beneath paragraph 6.5 refers to “Cumulative Impact Areas”. This is a term which is not used in the Gambling Act 2005 or any subsequent regulations relating to the Gambling Act 2005. It is an expression which you appear to have introduced to your Gambling Act policy. As you will be aware, Cumulative Impact Areas are often referred to in Licensing Act 2003 policies, and in the Section 182 guidance set out under the Licensing Act 2003, but they are not referred to in the Gambling Act 2005 or any subsequent regulation.

You refer in Paragraph 6.7 to it being clear that the clustering of gambling premises is currently undermining one or more of the Licensing Objectives. This is not clear to us.

You refer in Paragraph 6.8 to expecting existing operators to have appropriate measures in place to address specific risks within specific areas. Please note that we do not take any issue with the wording of Paragraph 6.8. It is perfectly reasonable and acceptable for your policy to expect appropriate measures to be in place to address specific risks.

At Paragraph 6.9, you seek to introduce a radical change to your policy and introduce the following:

Within gambling vulnerability zones and the 3 cumulative impact areas, there is a policy presumption to refuse any new gambling applications for AGC, Betting Shops or Bingo premises.

Our representation is that Paragraph 6.9 is unlawful. It is contrary to, and in fact the direct opposite of, the primary legislation and the principles to be applied under section 153 of the Gambling Act 2005, and in particular the “aim to permit” approach set out in the primary legislation.

A local authority cannot in its Gambling Act Statement of Policy introduce a policy which is in complete contradiction to the primary legislation. There is no power in the Gambling Act 2005 or any subsequent

regulation for you to change the approach and principles to be applied in considering applications under the Gambling Act 2005. It would be unlawful to do so.

We repeat that we have no issue with Paragraph 6.8 and you expecting existing operators to have measures in place to address specific risks within those areas. This is lawful and the correct use of policy. Paragraph 6.9 is not lawful as it completely contradicts the principles set out in the Gambling Act 2005.

Supporting Documents

We submit with this representation a Zip file of documents as follows:

- (a) Extract from Paterson's Licensing Act - Commentary on s153 Gambling Act 2005.
- (b) Gambling Act 2005 s349 Implementation of 3 Year Policy.
- (c) Gambling Act (Licensing Authority Policy Statement) 2006 - Procedure for the policy
- (d) Guidance to Licensing Authorities; 1.24-1.38 Limits on the Licensing Authority's discretion.
- (e) Part 6 Guidance to Licensing Authority from the Gambling Commission.

Paterson's Licensing Act

As you will be aware, Paterson's Licensing Act is the leading textbook on both the Licensing Act 2003 and Gambling Act 2005 and sets out commentary on the primary legislation. In this particular instance, it repeats Section 153 Gambling Act 2005; "*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;*"

Paterson's commentary continues, "*the subsection starts by imposing a general duty on the authority to "aim to permit the use of premises for gambling" and then sets out a series of 4 factors which may in any individual case qualify or override the general duty. The commentary continues to assess the "aim to permit" general principle referring to the Oxford English dictionary and other matters. You will note that the commentary states "the effect of all this is that any code of practice and any guidance to Local Authorities ought to promote the Licensing Objectives and no inconsistencies between the two should arise."* It is clear that this must also apply to Local Authority policy. There cannot be any inconsistency between the general approach set out in the primary legislation and Local Authority policy, and it would be wholly wrong and unlawful in our submission to do so.

Gambling Act 2005 s349

We attach Section 349 of the Gambling Act 2005 "3 Year Licensing Policy". This sets out in Part 18 of the Gambling Act 2005 the requirement to have in place a licensing policy.

We refer you to s349(1) which states that

A licensing authority shall before each successive period of 3 year;

(a) Prepare a statement of the principles that they propose to apply in exercising their functions under this Act. And;

(b) Publish the statement.

The Gambling Act is clear. The Statement of Principles must be principles that are applied in exercising your functions under this Act. You cannot change the functions or principles set out in the Gambling Act 2005. This is what you are seeking to do by implementing Paragraph 6.9. This is not something which lawfully a Statement of Principles/licensing policy can introduce.

Gambling Act Licensing Authority Policy Statement

We refer you to Section 5 of this document, which again makes it clear that your statement of principles/licensing policy must comply with the various sections of the Gambling Act 2005 and cannot change the primary legislation.

Guidance to Licensing Authorities

The Gambling Commission have issued clear guidance to Licensing Authorities in relation to the implementation of the Gambling Act and the principles to be applied in considering applications for new premises licences under the Gambling Act. There is nothing within the guidance which would allow you to change the primary legislation.

Part 6 Guidance to Licensing Authorities

We refer you to Paragraph 6.10 which states;

Whilst the policy statement may set out a general approach to the exercise of functions under the Act, it should not override the right of any person to make an application and to have that application considered on its merits. The exception to this is where the Licensing Authority has passed a “no casino” resolution under s166(1) of the Act, detailed in part 17 of this guidance. Additionally the policy statement must not undermine the right of any person to make representation on an application or seek review of the licence where provision has been made for them to do so.

It is clear in all the documentation that you cannot change the principles set out in the Gambling Act 2005 and Paragraph 6.9 seeks to do so.

We would be grateful to receive any updates as to your implementation of this policy.

Yours faithfully

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