

Gambling Act 2005 Policy Statement

Appendix 3: Summary of responses received and considerations

Respondent Details	Comments made	Response
<p>Coral Racing Limited One Stratford Place Montfichet Road London E20 1EJ</p>	<p>Consultation on Central Licensing Admin Unit Statement of Principles – Gambling Act 2005 – on behalf of:-</p> <ul style="list-style-type: none"> • Corby Borough Council • Kettering Borough Council • Daventry District Council • Northampton Borough Council • East Northamptonshire Council • Borough Council of Wellingborough <p>Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.</p> <p>Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to ‘aim to permit gambling’ where this is ‘reasonably consistent with the licensing objectives’, additionally noting that it should not take into account of any moral objections to gambling.</p> <p>Coral Racing Limited recognise the requirement to</p>	<p>Comments noted.</p> <p>Comments noted.</p>

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	<p>supply risk assessments with future applications & variations following the consultation completion (requirement is from 6th April 2016) and whilst this detail is not currently included within the Statement, we would be pleased to contribute to a consultation when it is.</p> <p>Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. A number of Council's have created long lists of locations which by inclusion are required to be risk assessed & strict templates to be completed. Coral are of the opinion that as there is no evidence that the proximity of such locations causes harm to the licensing objectives, it is best left to the operators to provide their own risk assessments. Naturally, if these do not meet the level desired by the Council, we would adjust to suit.</p> <p>If we can provide any further information, we would be pleased to do so.</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comment noted.</p>
<p>Gosschalks Solicitors Queens Gardens Hull HU1 3 DZ (Note: Two slightly differently worded responses were received from the above (28 October 2015 and 05 November 2015) - the 28 October 2015 submission is</p>	<p>We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.</p> <p>The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power,</p>	<p>Comments noted.</p>

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<p>quoted)</p>	<p>as well as almost 100 smaller independent bookmakers.</p> <p>This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.</p> <p>The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.</p> <p>The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.</p> <p>It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.</p> <p>Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.</p> <p>As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.</p> <p>Working in partnership with local authorities</p> <p>The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.</p> <p>There are a number of examples of the ABB working closely and successfully in partnership with local authorities.</p> <p>LGA – ABB Betting Partnership Framework</p> <p>In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.</p> <p>Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”</p> <p>The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.</p> <p>In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.</p> <p>In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.</p> <p>The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.</p> <p>Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.</p> <p>Local area risk assessments</p> <p>With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.</p> <p>Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.</p> <p>The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.</p> <p>Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.</p> <p>The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.</p> <p>Local Area Profiles – Need for an evidence based approach</p> <p>It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.</p> <p>This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.</p> <p>A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.</p> <p>Concerns around increases in the regulatory burden on operators</p> <p>Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.</p> <p>Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.</p> <p>Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.</p> <p>Employing additional licence conditions</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>

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	<p>The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.</p> <p>This would further 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.</p> <p>Specific Policy Comments</p> <p>In Part B Under the 'General Principles' heading at paragraph 1.1, there is a statement that 'licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate'. The statement of policy should be clear throughout that conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licencing objectives in the circumstances of a particular case.</p> <p>Paragraph 1.3 of the draft statement of principles</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>The Gambling Commission Guidance to Licensing Authorities (5th edition - September 2015) guides licensing authorities on the use of conditions. Paragraph 1.2 of Part B of the draft Policy Statement makes it explicit that relevant decisions will be taken in accordance with, <i>inter alia</i>, that guidance document. As such, no alterations are considered necessary.</p>

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	<p>indicates that moral objections and unmet demand are not criteria for a licencing authority when considering an application for a premises licence. It is respectfully submitted that this paragraph be expanded to state that issues of nuisance and the likelihood of the grant of planning permission or building regulation approval are not issues that can be taken into account when considering an application for a premises licence.</p> <p>Paragraph 1.4 refers to the concept of primary gambling activity and indicates, in the final sentence, "Operators will need to demonstrate that betting will continue to be the primary activity of the premises when seeking variations to licences." The statement of principles introduces in Paragraph 1.5 indicators of primary gambling activity as outlined by the Gambling Commission in its October 2013 Advice Note but ignores, however, subsequent case law. The case of <i>Luxury Leisure v The Gambling Commission</i> – May 2014 held that condition 16 (primary gambling activity) does not require a contest between over the counter betting and the use of machines. There must be sufficient facilities for betting (as described in paragraph 1.5) if gaming machines are to be utilised. The requirement, however, is simply that these facilities are available. The actual use of those facilities is not an issue. For that reason, the final sentence of paragraph 1.4 should be removed from the statement of principles as this appears to require evidence of actual use.</p>	<p>The wording of Paragraph 1.3 of Part B of the draft Policy Statement reflects Paragraph 5.34 of the Gambling Commission Guidance to Licensing Authorities (5th edition - September 2015). As such, no alterations are considered necessary.</p> <p>Having taken advice from the Gambling Commission, they have since confirmed that they intend to consult on this issue shortly and that it is currently covered in their Guidance to Licensing Authorities (5th edition - September</p>

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	<p>Paragraph 1.16 deals with location. The final two sentences of this paragraph cause the ABB significant concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licencing regime under Licencing Act 2003. Such a policy is contrary to the overriding principles of 'aim to permit' contained within s153 of the Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with a simple statement that each case will be determined on its own merits.</p> <p>Paragraph 1.21 explains the first licencing objective – preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. This paragraph indicates that the licensing authority is aware of the distinction between nuisance and disorder but we suggest that it should be expanded to make it clear that issues of nuisance are not relevant considerations and that the Gambling Commission has defined disorder as intending</p>	<p>2015). As such, it is proposed that Paragraphs 1.4 and 1.5 of Part B of the draft Policy Statement are removed and Officers will duly monitor the aforementioned consultation.</p> <p>Having taken advice from the Gambling Commission, they suggested that the two sentences in question could be removed and replaced with a sentence stating that the Licensing Authority has the option of adding conditions to a premises licence to address any such concerns. It is proposed that this is actioned as suggested by the Gambling Commission.</p>

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	<p>to mean activity that is more serious and disruptive than mere nuisance.</p> <p>Paragraphs 1.25 to 1.32 outline the policy relating to conditions. The statement of principles would be assisted by an indication that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licencing objectives. The draft statement of principles should make it clear that additional conditions will only be imposed where there is clear evidence of a risk to the licencing objectives that requires that the mandatory and default conditions be supplemented and not simply where there is 'perceived need' or where there are 'concerns'.</p> <p>Paragraph 6 of Part B would benefit from a clear distinction between betting machines and gaming machines in order that applicants, potential representors and the licensing committee may be aware that whilst the number of betting machines may be limited by condition, there is no power to impose conditions relating to the number of gaming machines. A betting premises licence authorises the holder to make use of up to 4 machines of categories B,C, or D as long as sufficient facilities for over the counter betting are provided.</p>	<p>The Gambling Commission Guidance to Licensing Authorities (5th edition - September 2015) includes guidance on this issue. As such, no alterations are considered necessary.</p> <p>No alterations are considered necessary due to the existing clarity of the wording of paragraphs 1.25 to 1.32 of Part B of the draft Policy Statement and the guidance included in the Gambling Commission Guidance to Licensing Authorities (5th edition - September 2015).</p> <p>No alterations are considered necessary due to the existing clarity of the wording of paragraph 6 of Part B of the draft Policy Statement and the guidance included in the Gambling Commission Guidance to Licensing Authorities</p>

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	<p>Conclusion</p> <p>The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.</p> <p>ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.</p> <p>Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.</p>	<p>(5th edition - September 2015).</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p>
<p>The Farming Community Network Manor Farm West Haddon Northants NN6 7AQ</p>	<p>Thank you for providing the opportunity to contribute to the process of consultation. The Farming Community Network is registered under the Small Society Lotteries</p>	

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	<p>of the Act.</p> <p>As you appreciate, we use lotteries for the sole purpose of raising funds to enable us to continue with our charitable aims and not for any commercial purpose. Like many small charities, we rely on the efforts of volunteers and a small number of part-time employees and, as a consequence, we hope to spend as little time as possible on the necessary administration tasks which are required. The initial process of registration ran quickly and smoothly and the demands placed on us by the Act are fair and not unduly onerous. Ideally, we would like this to continue.</p> <p>It will be of considerable benefit to charities and to other associations if the procedural requirements and the demands of regulations are kept to a minimum; ideally, no more than at present.</p> <p>I hope these comments may be of use within the scope of the consultation.</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>This consultation is highly unlikely to lead to the change of any existing small society lottery administrative procedures. Of course, the Licensing Authority does not have the gift to alter Regulations.</p> <p>Comments noted.</p>
Oundle Town Council	Further to your letter dated 22.09.2015 (copy attached), I can confirm that Oundle Town Council has reviewed the document and has no comment to submit.	Comments noted.