

Appendix B

Consultation response received and suggested actions

| Consultation response from Merkur Slots UK and Merkur Bingo and Casino | Relevant text within proposed policy | Amendments | Officer comments |
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| <p>Foreword</p> <p>We strongly disagree with the commentary included in the draft policy as it does not appropriately identify the permissive regime envisioned by Parliament and implemented by the Gambling Act 2005. Comments relating public health, and the imposition of additional obligations/conditions placed on operators fail to consider the extensive social responsibility provisions now contained in the governing legislation. The Authority's policy, as per section 349 of the Gambling Act 2005, should contain the principles that it proposes to apply in exercising its functions under the Act, it is therefore not an appropriate document to contain additional commentary, which is beyond the scope of the policy's function, and it should be removed.</p> | General context | No amendments suggested | <p>Officers are of the view that the Proposed Policy has been updated within the legislative framework (subject to the amendment proposed resulting from case law)</p> <p>It is recognised that the proposed policy makes suggestions/ relevant considerations, these are intended to be of assistance and are not mandated within the policy</p> |
| <p>3.11 – 3.17 Gambling Related Harm and Public Health 'We know that self-reported surveys underestimate true prevalence of harm.'</p> <p>'For every person who gambles, it is estimated that between six and ten people are 'affected others and experience similar harms.'</p> <p>Anyone who gambles is vulnerable to harm.'</p> | | <p>To be amended to:</p> <p>While gambling is an enjoyable leisure activity for many, previous research has shown that harms associated with gambling are wide-ranging. These include</p> | <p>The ref to six to ten people being affected is found with page 7 of LGA/ PHE – Tackling gambling related harm – A whole Council approach. This is also referred to in the Summary of Out of Luck (citizenadvice.org.uk)</p> |

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| <p>The above statements provide no supporting evidence and are inflammatory. We value local data that helps to identify and provide evidence of local risks of harm associated with gambling as this assists licensee to develop and apply appropriate and proportionate measures to mitigate risk and uphold the licensing objectives. Commentary must be based on current evidence rather than broad, generic statements or macro-societal trends that may have little to no relevance regarding the immediate local area.</p> <p>We suggest that these sections/comments are speculative and misleading as they are based on hypothetical and unquantifiable risks that could potentially arise from gambling. Suggestions that all gambling is harmful does not consider empirical evidence that the significant majority of individuals that participate in gambling do so in a responsible manner without harm. It is not the licensing authority's role to limit gambling rather than 'aim to permit' gambling that is in accordance with the relevant codes of practice and guidance issued by the Gambling Commission and is reasonably consistent with the licensing objectives.</p> <p>The third licensing objective places a fundamental obligation on all operators to ensure that the appropriate policies, procedures, and safeguards are in place to mitigate any of these potential risk factors</p> | | <p>not only harms to the individual gambler but their families, close associates and wider society</p> <p>and include a link to the Government's Gambling-related harms evidence review</p> <p>https://.gov.uk/government/publications/gambling-related-harms-evidence-review</p> | <p>which also highlights 6-10 people being affected.</p> <p>Ch3 of Out of Luck details underestimates of problem gamblers</p> <p>The suggested amended wording uses less evocative wording</p> |
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| <p>3.17 Gambling Related Harm and Public Health</p> <p>Although the policy recognises that public health teams are not a responsible authority under the Act, we would like to ensure that any collaboration and publication of findings are based on local, up-to-date, evidence and do not merely reflect macro-societal trends. As the policy expresses, any local area profile must be tailored to their area of authority and national trends do not provide qualitative assessments of local risks. We understand that local analysis is an invaluable tool to direct local resources and assist with the identification of potential risks. Local profiles assist operators in the development of local training and the implementation of appropriate operational controls</p> | <p>The Licensing Authority recognises that Local Authority Public Health teams can offer insights from those impacted by gambling harms and offer contextual information about treatment and support in the local area and can add value to the licensing application process where there are concerns raised about risk of harm to vulnerable groups locally.</p> <p>Greater Manchester's gambling harms reduction programme is listening to residents with lived experience of gambling and is commissioning its own research to better understand problem gambling in the region. As findings from this research emerge, licence holders will be expected to support the delivery of recommendations to help minimize gambling harms to the local populations.</p> | <p>No amendments suggested</p> | <p>The proposed policy is clear that the GM Gambling harms reduction programme will be used to inform measures aimed at minimizing gambling related harm. Other studies whilst not local may be able to demonstrate some synergy with Greater Manchester Combined Area (e.g. Leeds Beckett research referenced within the Policy)</p> |
| <p>3.40 Premises 'ready for gambling'</p> <p>Paragraph 3.40 states: 'If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.'</p> <p>This statement requires updating following the case of R (on the application of) Betting Shops Services Limited-v-Southend-on-Sea Borough Council [2008] EWHC 105 (admin). Other than the right to occupy, there is no legal reason preventing an operator from applying for a</p> | | <p>Amended to reflect the comments made</p> | <p>The comments made are relevant and the policy has been amended to reflect the comments</p> |

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| <p>premises licence and we therefore suggest that this section is amended to reflect this.</p> <p>See also the guidance issued within the Guidance to Licensing Authorities 5th edition at paragraph 7.64: "If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, a licensing authority ought to consider whether – applying the two-stage approach advocated above – it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. Licensing authorities may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for an application that the licensing authority did not think was grantable."</p> | | | |
| <p>5.13 Protecting Children and Other Vulnerable Persons</p> <p>'Licensees and applicants will be expected to demonstrate they have carefully considered how to protect children and vulnerable persons from harm and have adequate arrangements for</p> | <p>Licensees and applicants will be expected to demonstrate they have carefully considered how to protect children and vulnerable persons from harm and have adequate arrangements for preventing underage gambling on their premises premises. The measures that should be</p> | <p>No amendments suggested</p> | <p>The consultee suggested that the measures listed at para 5.31 should only be implemented where necessary and proportionate to calculated risks identified.</p> |

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| <p>preventing underage gambling on their premises. The measures that should be considered where appropriate:</p> <ul style="list-style-type: none"> ▪ Restricted opening and closing times to protect residents vulnerable to harm ▪ Controlled opening hours <p>Merkur is a responsible operator and implements measures to address local risks that relate to activities which would take place within their premises. The authority should recognise, that the measures mentioned above would only be implemented where necessary and proportionate to calculated risks identified. For example, where there is evidence of greater risk of harm during specific hours of operation and appropriate safeguards cannot be implemented. Conditions and social responsibility codes already place an obligation on operators to consider and address any concerns. Additional measures as mentioned above, should only be implemented in exceptional circumstances where existing provisions are inadequate to specifically address these concerns.</p> | <p>considered where appropriate are:</p> <ul style="list-style-type: none"> • The provision of CCTV • Location of entrances • Restricted opening and closing times to protect residents vulnerable to harm • Supervision of entrances • Controlled access to the premises by children under the age of 18 • Dealing with pupils who are truanting, and policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, half term and school holidays • Design layout/lighting/fit out to not attract children or vulnerable persons having a nationally-recognised proof of age scheme – Think 21/25 • The provision of registered door supervisors • Clear segregation between gaming and non-gaming areas in premises frequented by children • The provision of adequate signage and notices | | <p>The wording in the proposed policy invites the applicants/ licence holders to consider the factors listed where appropriate. The local risk assessments should inform these considerations</p> |
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| | <ul style="list-style-type: none"> • Supervision of machine areas in premises, particularly areas to which children are admitted • Controlled opening hours • Effective self-barring schemes • The provision of materials for GamCare, Betknowmore UK or similar, Citizens Advice Bureau information, local public and mental health and housing/homeless associations, printed in languages appropriate to the customer base. • Advertising local support services in the area such as Beacon Counselling Trust or the NHS Gambling Clinic. • The number of staff on duty and effective staff training, especially in relation to the ability to effectively Identify and engage with vulnerable persons, including primary intervention and escalation • A requirement that children must be accompanied by an adult (in premises where children are allowed) • DBS checks of staff not subject to required enhanced checks • Obscuring windows where appropriate and labelling premises | | |
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| | <p>so it is clear that they are gambling premises</p> <ul style="list-style-type: none"> • Self-exclusion schemes | | |
| <p>This statement (6.18) has no supporting evidence and cannot impose an obligation on licensees to validate their day-to-day operation. Whilst bingo facilities may not be offered between the hours of midnight and 9am under the default provisions provided by the legislation, Parliament has prescribed that there are no default restrictions regarding gaming machines (see guidance to licensing authorities' part 18). Gaming machine operation outside the default bingo hours permitted in bingo premises is an entitlement provided by the regulations and it is not within the authority's discretion to restrict the legal activities permitted without robust evidence to support any such restriction. Furthermore, the authority has offered no current or local evidence to support this statement in suggesting that gambling is more attractive to vulnerable persons at later hours of the day than any other time.</p> <p>Whilst the authority has every right to exercise its function in controlling where gaming machines may be played, this does not extend to a prescriptive requirement mandating all Bingo premises to suspend business. As discussed in point 5.13, operators are under a requirement to uphold social responsibility and will have risk assessed any potential concerns that may arise</p> | <p>6.18 Gaming Machines at Bingo Premises</p> <p>'The Licensing Authority is concerned that later opening hours will attract the more vulnerable, such as those who are intoxicated or who have gambling addictions. The Licensing Authority will expect applicant can demonstrate that robust measures will be in place to protect the vulnerable and the additional hours are not being sought to take advantage of the gaming machine entitlement.'</p> | <p>Amend the wording "Robust" be replaced with "appropriate"</p> | <p>The policy does not seek to restrict the legal activities permitted by legislation but accepts that the term "Robust" can be replaced with the term appropriate</p> |

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| from activity within their premises. Merkur has effective policies and procedures to manage their premises accordingly and always ensures that there is close supervision and familiarity within their business. | | | |
| Conclusion We are committed to working in partnership with the Gambling Commission and local authorities to continue to promote best practice and compliance in support of the licensing objectives. We look forward to discussion on the Proposed Statement of principles with you | | | Poppleston Allen were emailed a copy of this document on 27 January and invited to comment further by 2 Feb so that consideration could be given to any further response. The timescales were limited due to democratic process timescales |