

**Alcohol And Entertainment Committee  
11 September 2018  
Gambling Policy Representation Response**

Representation	Comment	Action Recommended
<p>Elizabeth Speed Group General Counsel <b>Novomatic UK</b></p> <p>Thank you for the opportunity to make comments on the above consultation. On behalf of Luxury Leisure I make the following comments in relation to the consultation draft (the "Draft"):-</p>		
<p>1. As the Authority will appreciate, 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. I cannot see a reference to the Regulators' Code in the current Draft and suggest that it is incorporated.</p>	<p>The reference to the Regulators' Code has been removed and the policy updated to reflect the Gambling Commissions Guidance to Licensing Authorities (GLA) updated September 2016.</p> <p><b>6.27</b> <i>For the purposes of their statement of policy, licensing authorities should confirm that they will act in accordance with the relevant legislation and Guidance from the Commission and <b>will adopt the principles of better regulation</b> (detailed at paragraph 5.27).</i></p> <p><b>5.27</b> <i>Under the Legislative and Regulatory Reform Act 2006, any person exercising a specified regulatory function has a legal duty to have regard to the statutory principles of good regulation<sup>6</sup> in the exercise of the function. These provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed. The Commission has regard to these principles in relation to</i></p>	<p>Noted. No action.</p>

	<p><i>its responsibilities and also has regard to the requirements of the Regulators' Code<sup>7</sup>. The purpose of the Code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.</i></p> <p>The Council's own policy states "The Legislative and Regulatory Reform Act 2006 (2006 Act) requires local authorities to have regard to the Principles of Good Regulation when exercising a specified regulatory function."</p> <p>It further goes on to reference the Regulators Code.</p> <p>It is thought that the reference to "principles of better regulation" reflects the advice of the Gambling Commission (GC) and future proofs the policy in terms of any legislative changes.</p>	
<p>2. Introduction and Scope: Para 1.3 – The Draft states that the aim of the SoP (Statement of Policy) is “to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons”. Section 349 of the Act clearly sets out the purpose of SoPs – namely “.. a statement of the principles [the authority] propose to apply in exercising their function under this Act during [the three year ] period”. This statutory requirement for SoPs is quite different to the stated aim in the Draft which I respectfully suggest be amended to avoid confusion and ensure compliance</p>	<p>Para 4.15 reflects the GLA.</p> <p><b>6.2</b> <i>The statement of policy acts as the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. For example, a licensing authority might identify the safeguarding of children as a key priority, in which case its statement would set out those policies, procedures and control measures it would expect licensees to follow to mitigate any risks relating to underage gambling.</i></p> <p>Further, in the GC Licensing Authority Bulletin published in January 2018, “safeguarding of the young and</p>	<p>Noted. No Action.</p>

<p>with the Act.</p>	<p>vulnerable” is noted as one of the objectives. The Bulletin also references a case study noting the policy of the Royal Borough Of Kensington and Chelsea stating:</p> <p><i>The Royal Borough of Kensington &amp; Chelsea expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.</i></p> <p>It is considered that Para 1.13 is relevant and does not need amending.</p>	
<p>3. Local Area Profile (LAP): Para 1.9 – It is not clear if this paragraph is the LAP itself or if the full LAP is to be found elsewhere. It would help if this could be clarified</p>	<p>The wording in the guidance could be clearer.</p>	<p>Noted. The wording will be amended in consultation with the Nottinghamshire Authorities Licensing Group (NALG) and a link to the Local Area Profile will be added.</p>
<p>4. Para 2.6 - There is no requirement in the LCCP (Local Conditions and Codes of Practice) or elsewhere for the Local Risk Assessment to be kept on the premises. The obligation is to produce it on request to the licensing authority (as is set out at para 2.4). This point also applies to other references in the Draft (e.g. para 3.9).</p>	<p>It would be difficult for licensees to demonstrate compliance with the requirement to produce or share their risk assessment in line with the GC code provision requiring licensees to share their risk assessment at the request of the licensing authority, in particular when inspecting a premises.</p> <p>The GC advises on its website: We recommend they hold premises risks assessments on the premises.</p>	<p>This will be discussed at the NALG meeting on 6<sup>th</sup> September and the meeting updated with the proposed response.</p>
<p>5. Para 2.8 – It is not clear what point is being made</p>	<p>Whilst it is recognised that Public Health is not a</p>	<p>Noted. No action.</p>

<p>with reference to public health. As is noted, legislators chose not to include health authorities as Responsible Authorities under the Act, nor to include the protection public health as a licensing objective. As such, the inclusion of this paragraph seems to be at odds with the Act and the requirements of the SoP. I would also note in passing that premises governed by the Act are already subject to the national smoking prohibitions and, in relation to AGCs, (Adult Gaming Centres) FECs (Family Entertainment Centres) and Betting premises, to alcohol prohibitions</p>	<p>licensing objective, the GC published a briefing paper in October 2017 “Gambling-related harm as a public health issue” outlining their position on the matter and makes recommendations for how this can be advanced at a local level. NALG entered into dialogue with the County’s Public Health Team a number of years ago as part of the licensing process. The team has drafted para 2.8 to reflect the GC concerns and give an overview of the issue.</p> <p>NALG considers this relevant information reflecting the issue and does not place obligations on the licensee or applicant outside the scope of the Act.</p>	
<p>6. Para 3.11 – while I agree that to be valid, a representation must relate to the premises in question and relate to the licensing objectives, I do not think it necessary to potentially complicate matters by also referring to the Commission’s Guidance etc. All matters under the Act are based on the licensing objectives.</p>	<p>The GLA quotes:</p> <p><b>7.53</b> Having determined that the representation is admissible, the licensing authority must consider its relevance. Only representations that relate to the licensing objectives or that raise issues under the licensing authority’s statement of policy, or the Commission’s Guidance or Codes of Practice, are likely to be relevant.</p> <p>Para 3.11 reflects the GC advice.</p>	<p>Noted. No action</p>
<p>7. Para 3.13 – there is no requirement to share a LRA (Local Risk Assessment) with anybody other than the authority (LCCP 10). As such a party wishing to make a representation would not have access to the LRA in order to assess whether they viewed it is “suitable or sufficient”. With respect, it is not for the Authority to seek to add to the operators’ obligations which are set out in legislation and LCCP. That would be inappropriate.</p>	<p>This does not add to the operators obligations. The LRA may be provided by applicants if they so desire to those persons who may wish to make representations. It will also inform the Licensing Authority decision to accept or make representation in their own right.</p> <p>NALG considers it appropriate to include the reference in Policy Two.</p>	<p>Noted. No action.</p>

<p>8. Licensing Objectives: Para 4.12 – the Licensing Objective in question is not “Protection of Children and Vulnerable Persons” as the heading sets out. Rather it is as set out in section 1c of the Act: i.e. “protecting children and other vulnerable persons <i>from being harmed or exploited by gambling [emphasis added]</i>”. This is one of the bedrocks of the Act, which legislation was finalised after months of debate. With respect, it is not for the Authority (or any other person) to recast its terms.</p>	<p>In view of the fact that it is the objective being referenced, it is appropriate that this be amended to reflect the objective.</p> <p>However, it should be noted that the phrase “protection of children and other vulnerable persons” is used on the GC website and the gambling codes of practice</p>	<p>Noted. Will amend</p>
<p>9. Para 4.15 – a similar point arises to that under 8 above. Again, I refer to the wording of the Act in relation to the harm that it expressly refers to as relevant under this Licensing Objective. While issues of, for example, child sexual exploitation are extremely important (and obligations about them will apply to operators of all businesses, including gambling premises), they are part of other regimes – both criminal and regulatory- and not one for SoPs under the Act. If that were not the case, there would be no limit on what could be included under this part of the SoP – things that are covered by other legislation and enforcement regimes.</p>	<p>The matters in Para 4.15 are advisory and will assist the applicant/licensee in putting in place policies and measures to address the vitally important issues.</p> <p>Para 4.15 notes that “Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.”</p> <p>This phrase and the measures outlined are referenced as good practice by the GC in the Licensing Authority Bulletin previously referred to.</p> <p>NALG considers it appropriate and relevant to include these measures.</p>	<p>Noted. No action</p>
<p>10. Para 4.13 – as you know, there are limited types of gambling in which children are expressly permitted to engage in by the Act. As such I suggest that this para be qualified to account for such legal activity.</p>	<p>Whilst there are limited types of gambling which children may legally engage in, it would not be appropriate to encourage children into gambling by aiming or advertising it in such a way as to make it attractive to them.</p>	<p>Noted. No Action</p>
<p><b>GAMCARE</b> Hello, Thank you for your email, we appreciate your interest in</p>	<p>GamCare is the leading national provider of information, advice, support and free treatment for anyone affected by problem gambling. Gamcare interacts with all parties involved in Gambling.</p>	<p>The response is noted and appreciated. However no action is required.</p>

our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling

The response from Gamcare is a generic one and reflects the content of the draft policy and requires no further action. Many of the points raised are already included within the draft policy or form a part of the required risk assessment.

However it would not be appropriate to follow the advice below, contained in their response.

“We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#).”

The Licensing Authority is obliged to treat each application on its own merits and whilst an applicant may wish to include such a reference in their application, it will not affect the manner in which the application is considered.

<p>premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</p> <ul style="list-style-type: none"><li>• A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.</li><li>• Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?</li><li>• Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.</li><li>• Consider whether the layout, lighting and fitting out of the premises have been designed so as</li></ul>		
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<p>not to attract children and other vulnerable persons who might be harmed or exploited by gambling.</p> <ul style="list-style-type: none"><li>• Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.</li></ul> <p>We would suggest that the Local Licensing Authority primarily consider applications from <a href="#">GamCare Certified operators</a>. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact <a href="mailto:mike.kenward@gamcare.org.uk">mike.kenward@gamcare.org.uk</a></p>		
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