

Summary of responses to consultation

Relevant Section of Policy	Response Received	Officer Recommendation
<p>Respondent: Gosschalks Solicitors</p>		
<p>Paragraph 11.27 states:</p> <p>If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant, then, in order to avoid breaching the licence, it will be necessary for the application to either make a fresh application under section 159 or seek an amendment to a detail of the licence under section 187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under section 187 is not possible. For this reason, and while this is a matter of judgement for the Licensing Authority, the Gambling Commission's guidance to licensing authorities considers that it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under section 159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.</p>	<p>The respondent submits that at paragraph 11.27 the statement that:</p> <p><i>"if the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence then the applicant will be in breach of the licence</i>"</p> <p>should be redrafted as this may well be the case if the premises are open and trading but, as the policy acknowledges, it is possible to make an application for premises which are not yet ready to open. In the context of a betting office licence, a premises licence that had been granted would only be breached if the operator provided facilities for betting where the layout of the premises did not accord with the plan attaching to the premises licence. They respectfully submit that this paragraph should be redrafted to reflect this.</p>	<p>The paragraph as prepared in the policy document is a duplication of paragraph 7.61 of the Statutory Guidance issued by the Gambling Commission (5th Edition - September 2015) in accordance with section 25 of the Gambling Act 2005. In carrying out its functions under the Act, the Licensing Authority must have regard to this Guidance when exercising their functions.</p> <p>Recommendation: Having regard to the comments of the respondent it is proposed that the wording of this paragraph within the policy can be amended as follows:</p> <p><i>"if the plans submitted at the time of the application for a premises licence are changed in any material respect during fitting out of the premises after the grant of the licence then the applicant will be in breach of the licence if he provides facilities for gambling."</i></p>

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<p>Paragraph 13 - Premises Licences conditions</p> <p>(Additional references to paragraph 12 and paragraph 1.8)</p>	<p>The respondent considers that this paragraph should be expanded to indicate that the mandatory and default conditions will usually be sufficient to ensure that premises operate in a manner that is reasonably consistent with the licensing objectives.</p> <p>There is also further reference to paragraphs 12 and 13 where it is proposed that these sections should be clear that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.</p> <p>The respondent also refers to paragraph 1.8 and that it should include a reference to evidence and request that it is redrafted to indicate that the licensing authority can impose conditions on a premises licence, reject, review or revoke a premises licence where there is evidence of a potential conflict with the relevant codes of practice, relevant guidance issued by the Commission, the licensing objectives or the licensing authority's own statement of licensing policy.</p>	<p>Section 169 of the Act gives licensing authorities:</p> <ul style="list-style-type: none"> • The ability to exclude from premises licences any default conditions that have been imposed under section 168; and/or • The power to impose conditions on premises licences that they issue. <p>The Statutory Guidance makes it clear in paragraph 9.28 that licensing authorities should make decisions on conditions on a case-by-case basis, and in the context of the principles of section 153 of the Act. They must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and the Statutory Guidance, or their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through use of conditions.</p> <p>Additionally, paragraph 9.31 of the Guidance states that conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:</p> <ul style="list-style-type: none"> • Relevant to the need to make the proposed building suitable as a gambling facility; • Directly related to the premises (including the locality and any

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		<p>identified local risks) and the type of licence applied for;</p> <ul style="list-style-type: none"> • Fairly and reasonably related to the scale and type of premises; and • Reasonable in all other respects. <p>The above paragraphs from the Statutory Guidance have been incorporated directly within the statement of licensing policy which the respondent seeks to amend.</p> <p>Recommendation: The provisions within the Act and associated Statutory Guidance offer both the Licensing Authority sufficient discretion and any applicant/licence holder suitable protection and it is not considered necessary nor appropriate to deviate from the Statutory Guidance issued by the Gambling Commission.</p>
<p>Respondent: The Chief Officer of Police</p>		
<p>Policy in General</p>	<p>The response makes general comments about the draft policy and the role of the Police and matters relating to crime.</p> <p>Paragraph 10.7 - Hampshire Constabulary note that the Licensing Authority does not propose to develop a Local Area Profile at this time. The Police note that the lack of crime data linked to gambling venues tends to confirm that this is not necessary or proportionate at present. If crime and disorder levels (linked to venues with gambling licences) increase, the Police have the ability to devise and provide crime data sets to contribute to this process.</p>	<p>Recommendation: Comments noted and no amendments needed to policy.</p>

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	<p>Hampshire Constabulary also welcome paragraph 10.5 of the policy which states:</p> <p><i>"Responsible businesses will wish to assist licensing authorities and responsible authorities as far as possible in their consideration of applications by making relevant information available as part of their applications".</i></p>	
<p>Respondent: Leslie Macleod-Miller (representing a number of operators and stakeholders concerned with social welfare in the gaming sector).</p>		
<p>The respondent makes a number of observations and recommendations with respect to the negative impact and regulation of £100 a spin gaming machines (more commonly referred to as Fixed Odds Betting Terminals (FOBTs)). He wishes to recommend that the Licensing Authority consider a number of general points that he believes should be included in the policy.</p>	<ol style="list-style-type: none"> 1. That the statement of Licensing Policy should include a statement that the Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be at least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling. He also recommends that the Authority supports any campaign to materially reduce the stake on FOBTs. There should be a consistent policy regarding the stake and prizes which can be available in adult gaming premises on the High Street. 2. That the policy should specify that interested parties referred to under section 158 of the Act, in the opinion of the Licensing Authority, includes those individuals and organisations concerned with or involved with social 	<p>Firstly it should be pointed out that Mr Macleod-Miller submitted these generic comments in January 2016 prior to the draft policy being prepared and published. The respondent has not submitted any further comments or amendments following publication of the draft policy and its specific contents.</p> <p>Recommendations:</p> <p><u>Point 1.</u></p> <p>It is a matter for the Licensing Authority to determine whether or not they feel it appropriate to voice concerns within its statement of licensing policy in relation to the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs).</p> <p>However, any such statement must be qualified by recognising that in carrying out its functions under section 153 of the Act it will aim to permit the use of the premises for gambling in so far as it thinks it:</p>

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	<p>welfare, addiction, poverty, public health, poverty and protection of the vulnerable which individuals and organisations will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised activities.</p> <p>3. The licensing policy specifies that, while each application or review will be decided on its merits, it is likely to take into account, when considering applications for premises licences, permits and other permissions, and when determining whether to review a licence, the licensing authority's local area profile. In particular, with respect to the local area profile that those with permanent or temporary financial deprivation within the local area and may be least able to afford to lose cash are vulnerable and likely to be harmed by the potential effects of excessive use of FOBTs because of the maximum £100 stake coupled with the speed and ease with which they can gamble compared with other forms of gambling.</p> <p>4. That the licensing policy acknowledges that while section 172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers or method of operation, conditions should be imposed upon the player rather than the machine so that those playing category B2 machines should not be permitted to wager more than £2 per spin (or such other level to which the FOBT stake level is reduced</p>	<ul style="list-style-type: none"> • In accordance with any relevant code of practice under section 24; • In accordance with any relevant guidance issued by the Gambling Commission under section 25; • Reasonably consistent with the licensing objectives; and • In accordance with the Authority's statement of licensing policy. <p>Members may wish to consider the addition of the following additional paragraphs in Chapter 18 - Betting Premises:</p> <p>18.9 The Licensing Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be at least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling.</p> <p>18.10 Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the following proposed measures to protect and support vulnerable persons;</p> <ul style="list-style-type: none"> • Leaflets offering assistance to problem gamblers should be available on gambling premises in a location that it

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	<p>as referred to in paragraph 1 above) irrespective of the machines ability to accept a higher stake.</p> <p>5. That the licensing authority should consider making reference in its policy to the local area profile, so that the local area profile can be reviewed and updated without the need for full consultation and therefore be updated to reflect the latest research concerning matters which relate to the licensing objectives and in particular protection of the vulnerable and the manner in which they can be protected.</p> <p>6. That the licensing authority should require operators to report vandalism to FOBTs so the Authority can obtain a true measure of the level of crime associated with FOBTs (addressing the issue that when machines are smashed by customers who have lost control, it is not being reported).</p>	<p>both prominent and discreet, such as toilets;</p> <ul style="list-style-type: none"> • Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who are vulnerable; • Trained personnel for the purposes of identifying and providing support to vulnerable persons; • Self-exclusion schemes; • Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people; • Posters with GamCare Helpline and website in prominent locations; • Windows, entrances and advertisements to be positioned or designed not to entice passers-by. <p>18.11 It is acknowledged that some of the proposed measures above form part of the mandatory conditions placed on premises licences.</p> <p>18.12 The Licensing Authority may consider any of the above or similar measures as licence conditions should these not be adequately</p>

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		<p>addressed by mandatory conditions, default conditions or proposed by the applicant.</p> <p><u>Point 2.</u></p> <p>The policy statement sets out in some detail from paragraph 6.8 onwards information concerning interested parties. The policy clearly states that each case will be considered on its merits and gives examples of what factors can be taken into consideration. It is the view of your reporting officer that no further additions are necessary to the current policy as it is worded sufficiently broadly for individuals and organisations mentioned in the respondent's submission to make representations if the Licensing Authority receives written confirmation that a person/body "represents" someone who either lives sufficiently close to the premises and/or has business interest that might be affected by the authorised activities (as set out in paragraph 6.11)</p> <p><u>Point 3.</u></p> <p>This comment is not applicable in the case of the Licensing Authority's statement of licensing policy as at this point in time there is no intention to include a local area profile - see paragraph 10.7 of the policy. However it does state that if the Licensing Authority decides in the future to develop a Local Area Profile, it will be separate to this policy which accords with the request of the respondent.</p> <p><u>Point 4.</u></p> <p>The Act is very clear as regards certain</p>

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		<p>matters where the Licensing Authority may NOT attach conditions. These include:</p> <p>Section 172(10) provides that conditions may not relate to gaming machine categories, numbers of method of operation.</p> <p>Section 171 of the Act prevents a licensing authority imposing conditions in relation to stakes, fees, winnings or prizes.</p> <p>Therefore the respondent's proposal to impose conditions relating to stakes would be in contravention of the provisions of the Act and therefore should be disregarded.</p> <p><u>Point 5.</u></p> <p>See comments above for Point 3.</p> <p><u>Point 6.</u></p> <p>Whilst the respondent refers to the need for operators to report vandalism to FOBTs to address the issue of machines being smashed by customers who have lost control there is no supporting evidence along with this statement to suggest that this is currently a problem within betting premises. It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licence holders to assess the local risk to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures in place to mitigate those risks.</p> <p>Recommendation: To note the comments made but no amendments to the policy necessary having regard to the protections contained within the LCCP</p>

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		requirements.