



HILLINGDON
LONDON



Licensing Committee

Date: WEDNESDAY, 13 JULY
2016

Time: 10.00 AM

Venue: CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

Councillors on the Committee

Dominic Gilham (Chairman)
David Yarrow (Vice-Chairman)
Lynne Allen (Labour Lead)
Roy Chamdal
Jazz Dhillon
Janet Gardner
Patricia Jackson
John Morse
Brian Stead
Teji Barnes

Published: Tuesday, 5 July 2016

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www.hillingdon.gov.uk

Putting our residents first

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the meetings held on 14 April 2016 and 12 May 2016 1 - 6
- 4 To confirm the items of business marked Part 1 will be held in Public and Part 2 will be held in Private

Part 1 - Public

- 5 Committee Discussion - developing a responsible retailer type approach to the upcoming Alcohol Wholesaler Registration Scheme 7 - 18
- 6 Gambling Act 2005 Update 19 - 62
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Part 2 - Private, Members' Only & Not for Publication

9 Sub-Committee Decisions and Ratification of Minutes

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This agenda item is to be considered in private as it contains information relating to an individual, information which is likely to reveal the identity of an individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. It is deemed that the public interest in withholding the information outweighs the public interest in disclosing it (exempt information under paragraphs 1, 2 & 7 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended).

Minutes

LICENSING COMMITTEE

14 April 2016

Meeting held at Committee Room 5 - Civic Centre,
High Street, Uxbridge, UB8 1UW



HILLINGDON
LONDON

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman), David Yarrow (Vice-Chairman), Roy Chamdal, Janet Gardner, Carol Melvin, John Morse and Brian Stead</p>
30.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Councillors Judy Kelly, Lynne Allen and Jazz Dhillon.</p>
31.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>No interests were declared by Members present.</p>
32.	<p>TO APPROVE THE MINUTES OF THE MEETING HELD ON 12 JANUARY 2016 (<i>Agenda Item 3</i>)</p> <p>Members agreed the minutes of the last Licensing Committee meeting and requested circulation of the letter by the Chairman to HM Revenue & Customs with proposals to strengthen the Alcohol Wholesaler Registration Scheme.</p>
33.	<p>SHISHA CAFES AND SMOKE FREE LEGISLATION (PRESENTATION) (<i>Agenda Item 4</i>)</p> <p>Technical officers from a range of regulatory service areas provided a joint presentation to Members on how the Council responds to effects arising from the growth and use of Shisha Bars and Lounges across the Borough.</p> <p>Members and officers discussed:</p> <ul style="list-style-type: none"> • Smoke free legislation and fines, along with the new trend in vaping; • Enforcement regulations around areas where outside smoking is permitted in terms of temporary structures used; • Unannounced visits by officers to ensure proper trading of products on offer and the age of patrons attending, e.g. test purchases; • The health impact of smoking shisha from pipes; • Recent prosecutions undertaken and; • Successful recent joint operations between Council teams on particular premises. <p>Members requested that officers:</p> <ol style="list-style-type: none"> 1. Investigate whether planning delegations could be strengthened regarding permissions for Shisha Bars; 2. Test purchases could be considered a such premises;

	<p>3. That the Residents' & Environmental Services Policy Overview Committee be informed that this matter could provide a useful topic to review in due course.</p> <p>The Committee thanked officers present for their efforts to-date in this regard.</p>
34.	<p>BETTING SHOPS AND PLANNING GUIDANCE (<i>Agenda Item 6</i>)</p> <p>The Head of Planning and Enforcement updated Members on how Council planning policies seek effective control over the use of shops for betting and gambling purposes. Members of the Committee welcomed the update and noted the over-concentration of such establishments in the Hayes area. Following discussion, Members requested officers provide them with relevant maps indicating individual betting shops in the Borough and also highlighting their intensity in town centre / ward areas.</p>
35.	<p>HEARING PROTOCOL FOR STREET TRADING (<i>Agenda Item 5</i>)</p> <p>The Committee considered updating the Hearing Protocol for Street Trading matters that come before a Licensing Sub-Committee, following the revised Street Trading and Markets Policies approved by Cabinet in December 2015. It was agreed that, subject to Cabinet Member being made aware, the protocol be issued for relevant public and trader consultation, before coming back to the Committee for adoption.</p> <p>RESOLVED:</p> <ol style="list-style-type: none"> 1. That the Licensing Committee considers the proposed Street Trading Hearing Protocol; 2. That, subject to any changes required by the Licensing Committee, the Regulatory Services Manager be authorised to begin a 28 day consultation on the introduction of a new hearing protocol for Street Trading applications. 3. That whilst a delegated function of the Committee, the portfolio Cabinet Member for Finance, Property and Business Services be informed prior to the consultation taking place by Regulatory Services.
36.	<p>COUNCILLOR HANDBOOK ON GAMBLING REGULATION (<i>Agenda Item 7</i>)</p> <p>The Committee received information on the checklist for Councillors in the Local Government Association, Councillor Handbook on gambling regulation and the Council's progress in meeting the requirements set out.</p> <p>RESOLVED:</p> <p>That the Licensing Committee notes Hillingdon's position in respect of the checklist.</p>
37.	<p>LICENSING ACTIVITY UPDATE (<i>Agenda Item 8</i>)</p> <p>Members were given an update on key activity within Regulatory Services, in particular to better understand trends and gain a useful overview of licensing activity.</p> <p>RESOLVED:</p> <p>That the Committee note the information.</p>

38. **LEGISLATIVE UPDATE** (*Agenda Item 9*)

An update on recent legislative developments was given by officers, including:

1. The Legislative Reform (Exempt Lotteries) Order 2016, where Members sought further clarification from officers after the meeting on whether small voluntary organisations like PTAs, would remain exempt from being licensed for school fundraising activities.
2. The Policing and Crime Bill, where it was noted that the definition of alcohol could be changed to ensure that powdered alcohol and vaporised alcohol fell within the definition, along with amendments to the summary review process which could allow licensing authorities to keep interim steps in place between the review hearing and the outcome of any appeal. Furthermore, Members were informed that should the Bill be passed, licensing authorities could have the power to revoke or suspend a personal licence when someone was convicted of a relevant offence.
3. The new Home Office Crime Prevention Strategy, which focussed on alcohol as a driver of crime and making the night time economy safer, with the launch of new round of Local Alcohol Action Areas and new proposals for Licensing Authorities to consider licence conditions on a group of premises so as to address problems in a certain area.

RESOLVED:

That the Committee note the update.

39. **FORWARD PLANNER** (*Agenda Item 10*)

RESOLVED:

That the Committee note the Forward Planner.

40. **SUB-COMMITTEE DECISIONS AND RATIFICATION OF MINUTES** (*Agenda Item 11*)

Relevant Members of the Committee agreed minutes of previous licensing sub-committee hearings as a correct record and the Committee then ratified the minutes of the meetings.

RESOLVED:

A: That the Committee note the decisions of the Licensing Sub-Committees since the last Licensing Committee meeting and;

B: That the Committee, and Members present at the following Sub-Committees, approve the minutes as a correct record:

- a) 16 December 2015 (Part 1 & Part 2)
- b) 21 January 2016 (Part 1)
- c) 3 February 2016 (Part 1)
- d) 10 March 2016 (Part 1 & Part 2)

e) 18 March 2016 (Part 1)

This matter was considered in private as it contained information relating to an individual, information which would be likely to reveal the identity of an individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. The public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraphs 1, 2 & 7 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended).

The meeting, which commenced at 10.00 am, closed at 11.44 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services on 01895 250636 or email: democratic@hillington.gov.uk. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

Minutes

LICENSING COMMITTEE

12 May 2016

Meeting held at Council Chamber - Civic Centre,
High Street, Uxbridge UB8 1UW



	<p>Committee Members Present: Councillors Dominic Gilham (Chairman), David Yarrow (Vice-Chairman), Lynne Allen (Labour Lead), Teji Barnes, Roy Chamdal, Jazz Dhillon, Patricia Jackson, John Morse and Brian Stead</p>
1.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item</i>)</p> <p>Apologies for absence had been received from Councillor Gardner.</p>
2.	<p>ELECTION OF CHAIRMAN (<i>Agenda Item 1</i>)</p> <p>RESOLVED: That Councillor Dominic Gilham be elected as Chairman of the Licensing Committee for the 2016/2017 municipal year.</p>
3.	<p>ELECTION OF VICE CHAIRMAN (<i>Agenda Item 2</i>)</p> <p>RESOLVED: That Councillor David Yarrow be elected as Vice Chairman of the Licensing Committee for the 2016/2017 municipal year.</p>
	<p>The meeting, which commenced at 9.05 pm, closed at 9.10 pm.</p>

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services on 01895 250470. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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COMMITTEE DISCUSSION: DEVELOPING A RESPONSIBLE RETAILER TYPE APPROACH TO HMRC'S UPCOMING ALCOHOL WHOLESALER REGISTRATION SCHEME

Committee	Licensing Committee
Officer Contact	Mark Braddock, Democratic Services Beejal Soni, Legal Services
Papers with report	Appendix 1 - Letter from Committee Chairman to HMRC Appendix 2 - Response from HMRC Appendix 3 - Recent Articles about the Scheme
Ward(s) affected	All

OVERVIEW FOR DISCUSSION

The Licensing Committee at its January 2016 meeting discussed how the upcoming Alcohol Wholesaler Registration Scheme (AWRS) should include a positive consumer marketing approach along the lines of existing "Responsible Retailer Schemes". This would ensure businesses purchasing alcohol know that wholesalers have been accredited with the Scheme and provide assurances to businesses and also consumers that products at the final point of sale are of legal origin.

Wholesalers or businesses that sell alcohol to another business will need to apply to register for the Scheme, introduced by HM Revenue and Customs (HMRC) to tackle alcohol fraud. Non-compliance will be a criminal offence.

The Chairman of the Committee wrote to HMRC (Appendix 1) and received a favourable response (Appendix 2) seeking the Council's views on how such an approach would operate and the benefits it might deliver. This is an opportunity for the Committee to potentially help shape Government policy around alcohol consumer protection going forward. It is therefore proposed that a wide-ranging discussion takes places to seek Members' views, with advice from officers who have expertise in similar schemes.

HMRC are also seeking feedback on the online 'look-up' service outlined in the information section below, so it is user friendly to businesses.

Members may also wish to focus their discussion from the point of view of how local traders, off licences and restaurants would wish to demonstrate they buy from accredited wholesalers, providing both business and consumer reassurance.

Appendix 3 shows some recent media articles of relevance.

The views put forward by the Committee can then be passed onto HMRC for consideration.

RECOMMENDATION

That the Committee considers how a Responsible Retailer Scheme type approach could be applied to the upcoming Alcohol Wholesaler Registration Scheme (AWRS) and delegates authority to the Senior Manager, Democratic Services, in consultation with the Chairman, to draft a response to HMRC on behalf of the Committee, sent by the Chairman.

BACKGROUND

Last year, HMRC announced plans to begin the registration of alcohol wholesalers with a view to limiting instances of non-duty paid alcohol being made available for sale within the United Kingdom.

Excise Notice 2002 confirms that the registration scheme (AWRS) applies to, amongst others, a pub retailer with a wholesale arm to their business, brewery, a local Cash and Carry or a specialist wine merchant. Internet sales from a UK established internet wholesaler to a UK trade buyer fall within the scheme in the same way as any other wholesale business. Excise Notice 2002 can be found at:

<https://www.gov.uk/government/publications/excise-notice-2002-alcohol-wholesaler-registration-scheme/excise-notice-2002-alcohol-wholesaler-registration-scheme>

From 1 January 2016, HMRC began accepting applications under the AWRS from pre-existing wholesalers to determine whether they are "fit and proper" businesses for inclusion on an online wholesaler business register. Applications for new businesses were accepted from 1 April 2016.

Existing wholesalers/wholesale businesses should have submitted an application on or before 31 March 2016 in order for an assumption to exist that the business was trading with approval. This assumption of approval would cease to have effect in the event that an application was subsequently refused. Any new business that may engage in the wholesale sale of alcohol must submit an application 45 days before the first day of trading. Wholesalers/wholesale businesses granted approval will be included in an online database of approved businesses. A unique reference number (URN) will be issued to these businesses and it will be mandatory to display the URN on sales invoices from 1 April 2017.

From 1 April 2017, trade buyers, for example off licences or restaurants, who buy their alcohol from UK wholesalers for resale will need to make sure that these wholesalers are approved by HMRC. The check will be made using an online look up service, and using this to check the validity of wholesalers will form part of these businesses' 'due diligence' processes. In addition to the penalties listed above, there is a potential that a trade buyer may have his/her premises licence reviewed as a consequence of failing to purchase alcohol for resale from an approved wholesaler.

Penalties for wholesalers who trade without submitting an AWRS registration form began on 1 April 2016. From 1 April 2017, it is also an offence to knowingly buy alcohol wholesale from wholesalers who should be approved under the AWRS scheme. Penalties for these offences can include forfeiture of a personal licence, a fine, imprisonment of up to 7 years or all three. Enforcement powers under the AWRS currently vest in HMRC only.

The AWRS scheme only covers sales that are made in the course of a trade or business to other businesses. It does not apply to private individuals purchasing alcohol from retailers for their own use.

Implications on related Council policies

None at this stage.

Legal implications

The Wholesaling of Controlled Liquor Regulations 2015 as well as Excise Notice 2002 confirm that administration and enforcement powers under the AWRS vest in HMRC Commissioners only. Consequently, the Council may introduce a voluntary scheme in order to support AWRS. Any voluntary scheme will require the approval of the Cabinet Member and/or the Cabinet dependent on the cost of introducing and running such a scheme.

Members are advised voluntary organisations, such as the Retail of Alcohol Standards Group and Best Bar None, have similar schemes which are compulsory for members of these organisations.

Financial Implications

None at this stage.

Background Papers

NIL.

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HILLINGDON

LONDON

Ms J Granger - Director General
HM Revenue & Customs
3rd Floor West, Ralli Quays
3 Stanley Street
Salford, M60 9LA

Our Ref: 3E/04/PC/BSL/003133

22 March 2016

Dear Ms Granger,

Re: Alcohol Wholesalers Registration Scheme (AWRS)

I write on behalf of the Licensing Committee of the London Borough of Hillingdon.

Overall we are supportive of the proposal as regards the requirement for wholesalers of alcohol to be registered with HM Revenue and Customs (HMRC).

It is undisputed that the purchasing habits of consumers have the ability to influence business operations of retailers. The Licensing Committee believes the effectiveness of the AWRS will be improved if consumers are actively encouraged to purchase alcohol from retailers who have been supplied by wholesalers approved by HMRC.

It is the opinion of the Licensing Committee that one of the most effective methods of introducing a positive consumer marketing aspect to this scheme would be to introduce a "Responsible Retailer Scheme" for alcohol sales.

/continued...

Councillor Dominic Gilham
West Drayton Ward

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✉ dgilham@hillington.gov.uk

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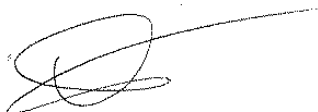
☎ 07956 256556

🐦 @DGilham

We therefore urge HMRC to consider the introduction of a Responsible Retailer Scheme with appropriate marketing, branding, signage etc... to support the AWRS.

The Licensing Committee welcomes the opportunity for the London Borough of Hillingdon to work with HMRC in introducing the AWRS and awaits your response to our suggestion.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line extending to the right.

Councillor Dominic Gilham
Chairman of the Licensing Committee



HM Revenue
& Customs

Ministerial Correspondence Unit

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Date 11 May 2016
Our Ref CETO/12968/2016
Your Ref 3E/04/PC/BSL/003133

Dear Councillor Gilham

Thank you for your letter of 22 March 2016 to Jennie Granger. I have been asked to reply to you.

I welcome your support for the new Alcohol Wholesaler Registration Scheme (AWRS). Thank you for your suggestion to introduce a 'Responsible Retailer Scheme'; an idea we would like to consider further.

We recently published a new alcohol strategy, which sets out our ambition to modernise the alcohol taxes to tackle fraud and reduce burdens on alcohol businesses. Part of that strategy is about continuing to explore measures to reduce tax losses. However, we also have a role to play in supporting wider government objectives to reduce alcohol related harms, and promote legitimate business growth. You can find this online at:

[www.gov.uk/government/uploads/system/uploads/attachment_data/file/510235/HMRC Alcohol Strategy.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510235/HMRC_Alcohol_Strategy.pdf).

To consider and understand the merits of your proposal, we would need to know more about the intended objectives of a 'Responsible Retailer Scheme', how you might see such a scheme operating, and the benefits it might deliver. More detail would also help us to understand where across Government the scheme should be implemented and led from, or if there is any scope for industry involvement or leadership of such a scheme.

We already engage regularly with officials from Local Government Association, with Trading Standards / Licensing officers, and sectors involved in the supply and retail of alcohol

Information is available in large print, audio and Braille formats.
Text Relay service number – 18001



through our Joint Alcohol Anti-fraud Taskforce (JAAT), to consider what action we can take collaboratively to tackle illicit alcohol trading at retail level. This might prove a useful forum to test your ideas in due course.

When you are in a position to provide further information on your proposal, please contact our lead official for alcohol policy and strategy, Dr Peter Latham at Ralli Quays, 3 Stanley Street, Salford, Greater Manchester, M60 9LA.

I hope you find this reply helpful. If you need to contact us again, please quote the reference number at the head of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Groves', with a long horizontal flourish extending to the right.

Steve Groves

HMRC to analyse lower-than-expected uptake on Alcohol Wholesaler Registration Scheme

[Francesca Washtell](#)

City A.M - 11 April 2016



The scheme received around 4,800 applications despite HMRC predicting up to 20,000 wholesalers might need to apply (Source: Getty)

The government's Alcohol Wholesaler Registration Scheme has suffered a blow after it was revealed it received only a quarter of the sign-ups as HM Revenue & Customs (HMRC) had predicted.

The scheme received around 4,800 applications before its deadline of 31 March, although HMRC had previously estimated around 20,000 businesses might need to register and had directly identified 9,500 eligible parties.

"The estimate of how many customers need to apply was made on the best information available. In the past wholesalers have not been required to register with HMRC so we knew the numbers were not exact.

"However the number of applications is lower than expected. We are currently looking at who applied and will use that analysis to determine what we do next

for those who have not applied but should have," an HMRC spokesperson said.

Wholesalers that do not register under the scheme could face a fine of up to £10,000 or a criminal conviction. However, City AM understands that businesses that are able to prove they did not know they needed to register for the scheme will not be subject to any punishments.

"There could be a number of reasons why people thought they would be liable to register but weren't," David Richardson, regulatory and commercial affairs director at the Wine and Spirit Trade Association, said.

"It may be that some of the reasons behind the figure include businesses registering as part of wider groups, premises numbers and that some weren't actually eligible under the conditions of the scheme who originally thought they would be."

HMRC sets its sights on rogue wholesalers

Federation of Wholesale Distributors (FWD) / HMRC letter - June 2016

Illicit alcohol wholesalers will be exposed and investigated ahead of next year's introduction of the Alcohol Wholesaler Registration Scheme, a Treasury Minister has said.

In a letter to FWD, Damian Hinds MP, the Exchequer Secretary to the Treasury, said that HMRC would 'take robust action to enforce the requirements of the scheme where [wholesalers] have not complied despite knowing they should.' He said that over the 11 months before the scheme goes live next April, the enforcement agency would be building intelligence and taking advantage of the new Alcohol Control Room announced in last year's Budget to investigate potential rogue traders.



Treasury Minister Damian Hinds has written to FWD

"Even if illicit wholesalers manage to evade attention during 2016-17, from April 2017 it will be increasingly difficult for them to carry out their trade without being detected," he added.

Mr Hinds said that the scheme would establish an accurate measure of the number of alcohol wholesalers, following criticism that HMRC'S initial estimate of 21,000 expected applicants for AWRS proved to be high, with less than 5,000 meeting the March 31 deadline for applications. As no previous register of alcohol wholesalers had been held by HMRC or any other body, it was hard to say accurately how many should apply and to target communications, he added. HMRC is looking at who has applied to see if extra communication is necessary for particular groups.

From April next year, retailers will be required to check that they are buying from a registered wholesaler via an online look-up service. Mr Hinds said work will continue to prepare retailers for this.

FWD members who trade in alcohol have all applied for registration. Chief Executive James Bielby said: "We are very pleased that the Treasury and HMRC are committed to vigorously pursuing the illegal traders who have for years been able to take business away from legitimate wholesalers. We will work with the Government and other trade associations to make sure that licensed retailers understand their responsibilities from April next year. It should not be a burden on responsible retailers to quickly check that their wholesaler is registered - in fact, the AWRS online look-up will make their normal due diligence significantly easier."

GAMBLING ACT 2005 UPDATE

Committee	Licensing Committee
Officer Contact	Stephanie Waterford x7232
Papers with report	Appendix 1 - Section 6 Gambling Commission Guidance to Licensing Authorities Appendix 2 - Early Day Motion - Fixed Odds Betting Terminals Appendix 3 - Parliamentary Briefing Paper
Ward(s) affected	All

HEADLINE

This report provides an update for Committee Members on a number of recent developments regarding the Gambling Act 2005.

RECOMMENDATION

That the Committee notes the update.

Clarification on the operation of Small Society Lotteries

At the meeting of the full Committee in April 2016, Members were updated on the Legislative Reform (Exempt Lotteries) Order 2016, which explained the changes to the regulation of incidental non-commercial, private society, work, and residents lotteries.

Members asked officers to clarify whether these changes would have any impact on Small Society Lottery Registrations which local non-profit groups would have to obtain in order to operate raffles/lotteries.

Small Society Lotteries are administered under Parts 4 and 5 of Schedule 11 of the Gambling Act 2005. A registration must be obtained where:

- The lottery is promoted wholly on behalf of a non-commercial society;
- It is a small lottery, i.e. proceeds below £20,000 per draw & £250,000 per year;
- A minimum of 20% of the proceeds are applied to the purpose of the society;
- Prizes have a maximum value of no more than £25,000

Non-commercial groups are typically, school parent/teacher associations, Scout/Guides groups, political associations, religious groups and local fund raisers etc.

The Chairman specifically enquired whether schools would have to register in order to carry out fundraising activity. The requirement for schools to register small society lotteries is unaffected by the Legislative Reform (Exempt Lotteries) Order 2016. However, as a result of the Legislative Reform (Exempt Lotteries) Order 2016, if the fundraising activity falls within the category of "incidental lottery" there is no need for the school to register with

Report Classification: Public

Licensing Committee: 13 July 2016

either the Council or Gambling Commission. In order to qualify for the "incidental lottery" exemption, all proceeds from the lottery must be utilised for non-commercial purposes. All tickets must be sold at the event, and the draw must be held during the event. A school would not come within the exemption if some tickets are sold prior to the event, or the draw is held at a later date. Deductions from the profits must not exceed £100 to cover costs or £500 to pay for prize.

Additionally, the raffle must be "incidental" to a larger fundraising event such as a school fete. For example, it would not come within the exemption if tickets were sold to parents at the school gates, and the raffle is drawn before the fete takes place, because there is then no larger event for the raffle to be incidental to.

An alternative option is for the school to use the exemption for a "Private Society" lottery. The school may only advertise the raffle and sell tickets on its own premises. The governing body should designate one or more people as "promoters" to sell tickets, and these promoters must be authorised in writing by the governing body. In addition, there is other information that must be printed on each raffle ticket, including the names of all the promoters, so there is a requirement to print bespoke tickets.

Local Area Profiles

The Gambling Commission's Guidance to Local Authorities, published September 2015, sets out the process and factors for consideration in respect of local area profiles.

The guidance provides local authorities with an opportunity to map out their local area based upon local issues and assess how gambling licences may impact on the local landscape.

The relevant section of the guidance has been included as Appendix 1.

Should Hillingdon wish to develop local area profiles, a change of Gambling policy will be required.

Officers are currently consulting with Senior Managers and the Cabinet Member to gain direction on this.

Fixed Odds Betting Terminals

1. Early Day Motion 61 Fixed Odd's Betting Terminals

On 23rd May 2016, an early day motion was submitted for debate regarding the proliferation of Fixed Odd's Betting Terminals (FOBT's).

Officers will keep the Committee informed of developments as this progresses through the Parliamentary Process.

A copy of the EDM is attached as Appendix 2.

2. Parliamentary briefing paper relating to Fixed Odd's Betting Terminals

A Parliamentary briefing paper has been published relating to Fixed Odd's Betting Terminals.

A copy of the briefing paper is attached as Appendix 3.

Implications on related Council policies

None at this stage.

Legal implications

None at this stage.

Financial Implications

None at this stage.

Background Papers / Further Reading Material

NIL.

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Local area profile

- 6.47** Licensing authorities will find it useful to complete their own assessment of the local environment as a means of ‘mapping out’ the key characteristics of the local area, which can be reviewed and updated to reflect changes to the local landscape. For the purpose of this Guidance, we refer to such assessments as *local area profiles*. Completion of a local area profile is not a requirement on licensing authorities but there are significant benefits for both the licensing authority and operators, in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risks, thereby taking into account possible future emerging risks, rather than reflecting current risks only.
- 6.48** An effective local area profile is likely to take account of a wide range of factors, data and information held by the licensing authority and its partners. An important element of preparing the local area profile will be proactive engagement with responsible authorities as well as other organisations in the area that can give input to ‘map’ local risks in their area. These are likely to include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.
- 6.49** Good local area profiles will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment, discussed at paragraph 6.41 above, which will form a part of any new licence application, or an application to vary a licence.
- 6.50** For example, an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school. The licensing authority might indicate, for example, that they would expect licensees to take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises. The licensee would be reasonably expected to have sufficient controls in place to mitigate associated risks in such areas and, if not, the licensing authority would consider other controls themselves.
- 6.51** It is for licensing authorities to determine whether to include a local area profile within the body of their statement of policy or separately. If included in the statement of policy, the licensing authority’s view of local risks would be a consideration for local gambling regulation in the context of s.153 of the Act. Licensing authorities may consider this is best achieved by making reference to the local area profile, so that it can be reviewed and updated without the need for full consultation.
- 6.52** There is no prescriptive template for a local area profile, as each assessment will be influenced by local circumstances. However it is expected that it will draw upon the knowledge and expertise of responsible authorities and be updated on a regular basis to reflect changes to the local environment.
- 6.53** As stated, there is no mandatory requirement to have a local area profile, but there are a number of benefits:
- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it
 - greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application
 - it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge
 - it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

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Early day motion 61

FIXED-ODDS BETTING TERMINALS

Session: 2016-17

Date tabled: 23.05.2016

Primary sponsor: Harris, Carolyn

Sponsors: Lammy, David | McDonald, Stuart | Rotheram, Steve | Timms, Stephen | Bottomley, Peter

Total number of signatures: **51**

Arkless, Richard	Blackford, Ian	Blackman, Kirsty	Blomfield, Paul
Bottomley, Peter	Bridgen, Andrew	Brown, Alan	Bruce, Fiona
Cadbury, Ruth	Campbell, Ronnie	Cowan, Ronnie	Cunningham, Jim
Dodds, Nigel	Doughty, Stephen	Edwards, Jonathan	Ellman, Louise
Elmore, Chris	Fitzpatrick, Jim	Fletcher, Colleen	Flynn, Paul
Furniss, Gill	Gibson, Patricia	Glendon, Mary	Grady, Patrick
Harris, Carolyn	Hayes, Helen	Hermon, Lady	Johnson, Alan
Jones, Gerald	Kinnock, Stephen	Lammy, David	Law, Chris
Lucas, Caroline	McDonald, Stuart	McGarry, Natalie	McKinnell, Catherine
Monaghan, Carol	Oswald, Kirsten	Reed, Jamie	Rotheram, Steve
Saville Roberts, Liz	Shannon, Jim	Sheppard, Tommy	Streeting, Wes
Thewliss, Alison	Timms, Stephen	Umunna, Chuka	Whitford, Philippa
Williams, Mark	Wilson, Corri	Wilson, Sammy	

That this House welcomes the creation of the Fixed Odds Betting Terminals All-Party Parliamentary Group; acknowledges that there has been a widespread proliferation in the number of fixed-odds betting terminals (FOBTs) since the Gambling Act was passed in 2005; notes that more can and should be done by all stakeholders to prevent the social harm caused by these machines; further notes that there are nine known suicides related to FOBT use, including two tragic cases in the last 12 months; calls on the Government to further regulate FOBTs and act on a precautionary basis by substantially reducing the stake on these machines until evidence can be found that they are safe; and commits to ensuring that gambling is undertaken responsibly and with proper supervision.

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BRIEFING PAPER

Number 06946, 22 April 2016

Fixed odds betting terminals

By John Woodhouse

Inside:

1. What are fixed odds betting terminals?
2. Early legal status
3. Early concerns
4. The Gambling Act 2005 and B2 machines
5. Continuing controversy
6. Government announces player protection measures (April 2014)
7. Betting industry initiatives
8. What now?



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Summary

Fixed odds betting terminals (FOBTs) are electronic machines, sited in betting shops, which contain a variety of games, including roulette. Each machine accepts bets for amounts up to a pre-set maximum and pays out according to fixed odds on the simulated outcomes of games.

The *Gambling Act 2005* classified FOBTs as B2 gaming machines. Up to four machines can be sited on betting premises. The maximum stake on a single bet is £100, the maximum prize is £500.

B2 machines have proved controversial since they first appeared. Critics point out that it is possible to lose large amounts of money and that the machines have a causal role in problem gambling.

The gambling industry says there is no evidence of a causal link between B2s and problem gambling. It also claims that reducing the maximum stake to £2, as some critics are campaigning for, would put betting shops and jobs at risk.

The Responsible Gambling Strategy Board, a body advising the Gambling Commission, has said that the correlations and associations between gaming machines and gambling-related harm are “poorly understood”.

In December 2014, the Responsible Gambling Trust (RGT), a charity working to minimise gambling related harm, published a set of research reports on category B machines. A research oversight panel, made up of independent academics, said the reports were “instrumental” in providing evidence that there were patterns of play that could be used to identify problem gambling. However the panel said that further studies would be needed before policies could be devised that targeted problem gamblers.

The RGT has an ongoing research programme looking at gambling behaviour and strategies to minimise gambling-related harm. On 19 April 2016, the RGT announced that it was commissioning a research project to study the cost of gambling-related harm to Government.

In April 2015 the *Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015* came into force. The Regulations require those wanting to stake over £50 on a B2 machine to load cash via staff interaction or to use account based play. The aim is to encourage greater player control and more conscious decision making.

The Government has said that it will consider a January 2016 evaluation of the Regulations before deciding on any further action on B2s.

1. What are fixed odds betting terminals?

Fixed odds betting terminals (FOBTs) are electronic machines, sited in betting shops, on which customers can play a variety of games, including roulette. Each machine accepts bets for amounts up to a pre-set maximum and pays out according to fixed odds on the simulated outcomes of games.

FOBTs were introduced into betting shops in 1999¹, with a small number of high margin games available. Changes to the taxation of gambling (ie the introduction of a gross tax on profits) came into effect in October 2001² and allowed the betting industry to introduce new lower margin products, such as roulette, to FOBTs. This led to the “increasing installation” of FOBTs in betting shops.³ By April 2005, an estimated 20,000 terminals were in use.⁴

The *Gambling Act 2005* classified FOBTs as B2 gaming machines. These terms will be used interchangeably throughout this note. By the time the 2005 Act came into force in September 2007, the Culture, Media and Sport Committee said there were roughly 30,000 FOBTs in place.⁵

An operating licence (issued by the Gambling Commission), together with a betting premises licence (issued by the licensing authority), allows for up to four B2 machines to be sited on betting premises.⁶ The maximum stake on a single bet on a B2 machine is £100; the maximum prize is £500.⁷

¹ Coral Eurobet [written submission](#) (May 2002) to the Culture, Media and Sport Committee inquiry on the Government’s proposals for gambling ([HC 827-I 2001-02, July 2002](#))

² For background see section 1 of Library standard note SN/BT/2151, [Bingo taxation](#), 20 June 2014

³ [HC Deb 8 January 2003 c7WS](#)

⁴ Europe Economics, [Fixed odds betting terminals and the code of practice: a report for the Association of British Bookmakers Limited – summary only](#), April 2005, para 1.2.5

⁵ Culture, Media and Sport Committee, [The Gambling Act 2005: a bet worth taking?](#), HC 421 2012-13, July 2012, p5

⁶ Gambling Commission website: [Gaming machines on betting premises](#) [accessed 22 April 2016]

⁷ Gambling Commission website: [Gaming machine \(fruit machine, slot machine\) categories](#) [accessed 22 April 2016]

1.1 How many are there?

Gambling Commission statistics give a figure of 34,552 for 2014/15:

Fixed odds betting terminals, Great Britain

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Number of B2 terminals	31,439	33,663	32,832	33,294	33,299	34,492	34,552
Annual percentage increase	-	7.1%	-2.5%	1.4%	0.0%	3.6%	0.2%
Gross Gambling Yield (£million)	1,050.71	1,166.50	1,302.35	1,455.95	1,542.84	1,564.69	1,664.02
Annual percentage increase	-	11.0%	11.6%	11.8%	6.0%	1.4%	6.3%

Source: [Gambling Industry Statistics, table 2](#)

1.2 Why are they controversial?

FOBTs have proved controversial since they first appeared.

Critics point out that it is possible to lose large amounts of money playing on the machines. They also claim the machines have strong “reinforcing features”⁸ and a causal role in problem gambling.⁹ The Campaign for Fairer Gambling (CFG) is running a “Stop the FOBTs” and wants the maximum stake reduced to £2.¹⁰

The Association of British Bookmakers (ABB) claims there is no evidence of a causal link between B2s and problem gambling.¹¹

The evidence on the exact causal role (if any) of B2 machines in problem gambling is inconclusive and so the controversy continues.

The Responsible Gambling Strategy Board (RGSB, an independent body advising the Gambling Commission)¹² has said that there is a complex relationship between gaming machines, gambling and problem gambling and that the “correlations and associations” between gaming machines and gambling-related harm are “poorly understood”.¹³

However, after looking at data from the British Gambling Prevalence Survey 2010, the RGSB did acknowledge that there was “a growing

⁸ Quoted in [The Gambling Act 2005: a bet worth taking?](#), p19

⁹ Press discussion includes: [“‘Crack cocaine’ gambling machines make £1,000 a week: Profits on fixed odds terminals said to have rocketed in the past year”](#), *Daily Mail*, 26 January 2016; [“Government gambling policy must target fixed-odds betting terminals”](#), *Guardian*, 28 November 2014; [“High-stakes gambling machines ‘suck money from poorest communities’”](#), *Guardian*, 4 January 2013

¹⁰ CFG website: [Stop the FOBTs campaign](#) [accessed 22 April 2016]

¹¹ Association of British Bookmakers, [The truth about betting shops and gaming machines – ABB submission to DCMS Triennial Review](#), April 2013, p71

¹² The RGSB also determines and recommends to the Responsible Gambling Trust what research, education and treatment is required to reduce harm from problem gambling - [RGSB website: FAQs](#) [accessed 22 April 2016]

¹³ RGSB, [Advice to the Commission on the Triennial Review consultation](#), June 2013, para 9.3-9.4

group of gamblers participating in machines in bookmakers who might be more at risk of problem gambling given that age, gender and income are all correlated with problem gambling".¹⁴

The RGSB also noted the "regulatory dilemma" of balancing the enjoyment of the majority who gamble without experiencing harm with the protection of a minority who are at risk.¹⁵

In December 2014 the Responsible Gambling Trust (RGT, a national charity working to minimise gambling-related harm) published research into gaming machines in betting shops.¹⁶ The research, summarised in an appendix to this paper, was commissioned by the RGT to distinguish between harmful and non-harmful machine play and to understand measures that might help those at risk.

¹⁴ Ibid, para 9.15

¹⁵ Ibid, para 8.3

¹⁶ ["Ground-breaking research distinguishes problem and non-problem play on gaming machines"](#), RGT press statement, 1 December 2014

2. Early legal status

The legal status of FOBTs was initially controversial. Under the legislation in place at the time of their introduction, FOBTs were not classed as gaming machines and so there were no limits on where they could be placed and in what numbers.¹⁷ In a Written Ministerial Statement of 8 January 2003, the then Government expressed “concern” at the “increasing installation” of FOBTs in licensed betting offices and that this “risk[ed] seriously increasing problem gambling”. The Statement noted that the then Gaming Board for Great Britain and the ABB had agreed to bring a test case to clarify the status of FOBTs under the existing law.¹⁸ The Statement also said that the Government planned to draft new legislation so that “those betting machines which in reality involve gaming will be brought within the relevant controls for gaming machines”.

The legal action between the Gaming Board and ABB was settled out of court on 19 November 2003. The Gaming Board had argued that FOBTs were “for all practical purposes identical to gaming machines and should be treated as such”.¹⁹ The ABB argued that FOBTs provided a betting activity which should be permitted in licensed betting offices.²⁰ A code of practice agreed in November 2003 meant that:

- licensed betting offices could operate no more than 4 machines in total (whether conventional gaming machines or FOBTs, or a mix of the two)
- the maximum prize on FOBTs would be £500 and the maximum stake £100
- no casino games other than roulette would be allowed on FOBTs
- the speed of play on FOBTs would be restricted²¹

¹⁷ Culture, Media and Sport Committee, [The Gambling Act 2005: a bet worth taking?](#), p18

¹⁸ [HC Deb 8 January 2003 c7WS](#)

¹⁹ Quoted in [Joint Committee on the Draft Gambling Bill](#), HC 139-I 2003/04, April 2004, p128

²⁰ *Ibid*, p128

²¹ *Ibid*, p128

3. Early concerns

Concerns about the potential impact of FOBTs on problem gambling were expressed in evidence to the Joint Committee examining the *Draft Gambling Bill 2003/04*.²² GamCare (the charity that runs the national helpline for problem gamblers)²³ said: “it seems as if there is an increasing trend for asking us for help on FOBTs; from a few calls per month in early 2003 we are now receiving between 40 and 50 calls a month.”²⁴

Gordon House (a charity providing support and treatment to addicted gamblers)²⁵ told the Committee that an applicant had referred to FOBTs as “the crack cocaine of gambling” and that FOBTs were like a “catalyst or an accelerant”.²⁶ The former phrase has been repeated ever since in discussions of FOBTs and problem gambling.

At the then Government’s request, the ABB commissioned research to assess the effectiveness of the November 2003 code of practice in providing protection against problem gambling and to measure and explain levels of problem gambling amongst FOBT users. The subsequent report by Europe Economics was published in April 2005²⁷ and estimated that there were 20,000 terminals in approximately 8,000 betting shops.²⁸ According to the report, the code of practice had been of some benefit:

1.8.4 There are indications that the marginal effects of the Code of Practice have been beneficial. There is no widespread opposition to the main customer-focused provisions of the Code among FOBT users. It seems to us likely that the vast majority of FOBT users were playing within the provisions of the Code before it was devised.

1.8.5 Among the generality of FOBT users there is more support for than opposition to five out of the six key provisions of the Code. There is strong support for the limitation on numbers of machines in a betting shop, for the minimum time interval between bets, and for GamCare help pages and signage. Regular FOBT users also support these measures, though among them there is net opposition to the limitations on stake and payout and to confining casino-type games to roulette.²⁹

The report found no evidence that FOBTs were closely associated with problem gambling:

1.8.2 Problem gamblers characteristically participate in a variety of forms of gambling, and it has not been statistically possible through this research to identify any one form of gambling as

²² Ibid, p130

²³ GamCare website: [Working with problem gamblers](#) [accessed 22 April 2016]

²⁴ Quoted in [Joint Committee on the Draft Gambling Bill](#), p130

²⁵ [Gordon Moody Association website](#) [accessed 22 April 2016]

²⁶ Quoted in [Joint Committee on the Draft Gambling Bill](#), p130

²⁷ Europe Economics, *Fixed odds betting terminals and the code of practice: a report for the Association of British Bookmakers Limited*, April 2005

²⁸ Europe Economics, [Fixed odds betting terminals and the code of practice: a report for the Association of British Bookmakers Limited – summary only](#), April 2005, para 1.2.5

²⁹ Ibid

causing or aggravating problem gambling. There is no evidence in this study which suggests that FOBTs are closely associated with problem gambling.

1.8.3 If problem gambling is to be studied comprehensively, this research suggests it would be better not to begin by focusing on specific forms of gambling. It may be preferable to obtain a sample of problem gamblers and to investigate their gambling practices and preferences.³⁰

However, according to an article in the *Telegraph*, a Government advisor had described the report as “predictable” and “worthless”.³¹

A June 2006 follow-up report said that FOBTs were “not more associated with problem gambling than any other form or forms of gambling”.³²

³⁰ Ibid

³¹ [“Betting shop gaming machines cause concern”](#), *Telegraph*, 4 March 2005

³² Europe Economics, [Fixed odds betting terminals, the code of practice and problem gambling: a second report for the Association of British Bookmakers Limited](#), June 2006, para 1.4.4

4. The Gambling Act 2005 and B2 machines

In her March 2004 evidence to the Joint Committee on the *Draft Gambling Bill 2003/04*, the then Secretary of State for Culture, Media and Sport, Tessa Jowell, said that a “final decision” on treating FOBTs as gaming machines and classifying them as B2 machines under forthcoming legislation would be taken after the first research study commissioned, at the Government’s request, by the ABB (referred to above).³³

Following the findings of the ABB report, FOBTs were classified as B2 gaming machines under the *Gambling Act 2005*.

The 2005 Act regulates gambling in Great Britain. The Act introduced, among other things, a new framework for gaming machines, including new categories of machine, and powers to prescribe maximum limits for stakes and prizes, as well as the number of machines permitted in different types of premises.³⁴ Under the Act, gaming machines are categorised as A, B, C, or D.³⁵ An operating licence (issued by the Gambling Commission), together with a betting premises licence (issued by the licensing authority), allows for up to four B2 machines to be sited on betting premises.³⁶

The maximum stake on a single bet on a B2 machine is £100, the maximum prize is £500.³⁷

Any change to the stake and prize limits of gaming machines or to the number of B2s permitted in betting premises would require secondary legislation.

4.1 Looking back at the 2005 Act

In January 2012, Richard Caborn, the Minister at the time of the *Gambling Bill 2002/03*, explained to the Culture, Media and Sport Committee how the November 2003 agreement to limit FOBTs to four in a shop, eventually enshrined in the 2005 Act, was reached:

In 2002, we started to see FOBTs being put in—the definition of betting as against gambling created this problem, because the FOBTs were fixed odds betting terminals—and I came back and asked my officials what powers the Gaming Board, as it was before the Gambling Commission, had. They said, “You’ve none, Minister.” I asked what we would do, and was told that we could not do anything. I said “That’s just not good enough,” because

³³ Joint Committee on the Draft Gambling Bill, *Draft Gambling Bill*, 7 April 2004, HC 139-II 2003-4, [Fv 562](#)

³⁴ For background to the 2005 Act see Library research paper 04/79, [The Gambling Bill 2003-04](#), 28 October 2004; For a summary of gaming machine regulation under the *Gaming Act 1968*, see chapter 6 of the Gambling Review Report (July 2001, Cm 5206).

³⁵ An overview of the different categories is given on the Gambling Commission website: [Gaming machine \(fruit machine, slot machine\) categories](#)

³⁶ Gambling Commission website: [Gaming machines on betting premises](#)

³⁷ Gambling Commission website: [Gaming machine \(fruit machine, slot machine\) categories](#)

FOBTs were starting to emerge. Talking around it, as you do, it was clear that even the most responsible of the companies were saying “If they go down there, it will be a race to the bottom.”

That was the danger we were in, three years before we got an Act on to the statute book. We had a problem because of the definition and because of technology coming in, and we could have had wall to-wall FOBTs across the country. We had no laws and no powers to stop that. I called four of the companies together and said, to put it quite crudely, “If you continue to race to the bottom, I shall make sure that that bottom is taken away from you when we bring an Act two or three years down the road. So I think it is a good idea if we all sit round the table and do a deal.” That is how the deal was done. The deal was done for four in a shop, and we did it against the background of stakes and prizes, frequency of operation and numbers...

... Whether we got it right on allowing four—whether it should have been three or four—I do not know, but that was the discussion at the time. That arrangement was negotiated between the officials and the betting industry and it held, in my view, right up to the Act, then it was confirmed in the Act itself.³⁸

Tessa Jowell told the Committee that she had said during the passage of the 2005 Act that FOBTs were “on probation”. She was concerned about unintended consequences relating to the machines; about the gambling industry becoming “overly dependent” on growth driven by the machines; and about their role in problem gambling.³⁹ On deciding on the number of machines to be permitted in each betting shop, Ms Jowell said:

...at the time that four was settled on as the number, there was no certainty that these machines would remain, because we were absolutely clear that we could not know at that stage that their effect was likely to be.⁴⁰

In a January 2016 letter to the *Times*, Baroness Jowell called for the Government and Gambling Commission to take action over B2 machines. She also said that local authorities should be able to restrict planning consent for new betting shops.⁴¹

³⁸ Culture, Media and Sport Committee, [The Gambling Act 2005: a bet worth taking?](#), Ev 101-2

³⁹ Ibid, Ev 102

⁴⁰ Ibid, Ev 103

⁴¹ Baroness Jowell, Letter to the Editor, *The Times*, 26 January 2016, p26

5. Continuing controversy

Much of the ongoing controversy concerns the role, if any, of B2 machines in problem gambling. A selection of what has been said on this is set out in the rest of this section. It is not meant to be exhaustive, but aims to highlight some of the relevant issues and what has been said by some of the participants in the debate.

Gambling Commission study (December 2008)

In December 2008, the Gambling Commission published the results of desk research that focused on:

- the causal links (if any) between the availability of high-stake, high-prize gaming machines and the development of problem gambling
- the attraction of these machines to existing problem gamblers
- the exacerbation of gambling problems from access to such machines⁴²

The report found there was “relatively little relevant evidence from studies carried out in adult gamblers in Great Britain.”⁴³ It also said the “applicability of evidence from overseas needs to be assessed further because regulatory, geographic and venue information as well as machine characteristics (including the size of stakes and prizes) in other jurisdictions differ”.⁴⁴

While noting the lack of consensus in existing research about the extent to which gaming machines cause problem gambling, the report did say:

(...) much research in other jurisdictions (including prevalence surveys) suggests that there are associations between machines and problem gambling. In addition, data from many countries (including Britain) show that machine players are most likely to contact national telephone help lines.

1.5 Evidence suggests that while gaming machines appear to appeal to many gamblers, they seem to be particularly attractive to those at risk of problem gambling and to those with a gambling problem. Compared to non-problem gamblers, problem gamblers tend to play on gaming machines more frequently and spend more time and money on them. The available research has identified the sort of features that appeal to gamblers (eg fast games, multi-stake, high payout ratio, free games) and that are therefore associated with higher levels of both gambling and gambling-related harm.

The report found some evidence suggesting that problem gambling behaviours fluctuate over time and that many gamblers intermittently experience difficulties controlling their gambling. However there was uncertainty in the available research about how best to minimise the

⁴² Gambling Commission, [Impact of high-stake, high-prize gaming machines on problem gambling: overview of research findings](#), Desk exercise by the Gambling Commission, Contributing editor Mark Griffiths (International Gaming Research Unit, Nottingham Trent University), December 2008, p2

⁴³ Ibid, p2

⁴⁴ Ibid, p2

harm that gamblers might be exposed to when using gaming machines.⁴⁵

Progress in understanding why some gamblers become addicted to high-stake gaming machines and over-spend, while many others don't, would require access to players in their "gambling habitats" and to data on their behaviour, both of which would require "substantial research" as well as industry support.⁴⁶

Culture, Media and Sport Committee report (July 2012)

The Culture, Media and Sport Committee looked at gaming machines and problem gambling in its July 2012 report on the *Gambling Act 2005*.⁴⁷ The report said the allocation of gaming machines under the Act was "complex and was not made on the basis of solid evidence about the risk of problem gambling".⁴⁸ It noted the controversy over B2 machines, citing some of the differing evidence it had received on their role in problem gambling.⁴⁹

The Committee recommended that research should be commissioned by the Gambling Commission to assess whether there were any links between speed of play, stake and prize levels, the accessibility and numbers of gaming machines, and problem gambling.⁵⁰ The Committee welcomed the Government's position that changes to machine stakes and prizes should be evidence-based.⁵¹

Association of British Bookmakers' position

The ABB's position is set out in its April 2013 submission to the DCMS triennial review of maximum stake and prize limits.⁵² This claims there "is no evidence of a causal link between problem gambling and electronic gaming":

The average amount spent by customers on a B2 gaming machine is around £11 per machine per hour.

And 74% of B2 players play once a month or less which is hardly reflective of an addictive product. There is no evidence of a causal link between gaming machines and higher levels of problem gambling and the percentage of identified problem gamblers playing on B2 machines actually went down by 20-25% from 2007 to 2010.

Research commissioned by the Responsible Gambling Fund in 2011 (Disley - 'Map the Gap') found that there was a distinct lack of clear evidence linking electronic machines to problem gambling...⁵³

⁴⁵ Ibid, p2

⁴⁶ Ibid, p3

⁴⁷ Culture, Media and Sport Committee, [The Gambling Act 2005: a bet worth taking?](#), chapter 2

⁴⁸ Ibid, p17

⁴⁹ Ibid, pp18-9

⁵⁰ Ibid, p20

⁵¹ Ibid, p25

⁵² Association of British Bookmakers, [The truth about betting shops and gaming machines – ABB submission to DCMS Triennial Review](#), April 2013

⁵³ Ibid, p21

The ABB paper refers to the economic and social benefits of licensed betting offices.⁵⁴ It claims that a reduction to £2 of the maximum stake on B2 machines would put 90% of betting shops and nearly 40,000 jobs at risk and result in the Treasury losing nearly £650 million in tax.⁵⁵

Stop the FOBTs campaign

The Campaign for Fairer Gambling (CFG) is running a Stop the FOBTs campaign. The CFG states it is not anti-gambling⁵⁶ but wants “strong action” taken against B2 machines, claiming that the average regular B2 gambler loses nearly £2,000 per year while bookmakers win over £0.6 billion per year from “addicts”.⁵⁷ According to the CFG, when compared to other gambling activities, FOBTs have:

- the joint highest ratio of use by 16 to 24-year old gamblers
- the highest ratio of use by the lowest income quintile gamblers
- the second highest ratio of use by unemployed gamblers
- the third highest ratio of use by at-risk “high-time and high-spend” gamblers⁵⁸

The CFG recommends:

- reducing the number of machines from four per shop to one
- reducing the current maximum stake from £100 to £2
- removing table game content from FOBTs (because the pace of these games is faster than in real casinos)
- reducing the spin frequency, by increasing the current delay of 20 seconds between wagering to 60 seconds⁵⁹

A number of research reports have been commissioned by the CFG and are available from its website.⁶⁰ An April 2014 report by Landman Economics challenged the ABB’s April 2013 paper (referred to above). The report claimed that “overall there is reasonably strong evidence of a link between FOBTs and problem gambling based on a wide range of previous research from academic studies”.⁶¹ A report by NERA Economic Consulting critically reviewed the impact assessment in the ABB’s paper.⁶² According to another report by Landman Economics, increases in spending on FOBTs would be “likely to *destroy* jobs in the UK economy rather than creating them”.⁶³

⁵⁴ Ibid, p2

⁵⁵ Ibid, p71; further detail on the economic costs is given in an impact assessment in chapter 12

⁵⁶ CFG website: [What are we trying to do?](#) [accessed 22 April 2016]

⁵⁷ CFG website: [Why should you be interested?](#) [accessed 22 April 2016]

⁵⁸ Ibid

⁵⁹ CFG website: [Our recommendations](#) [accessed 22 April 2016]

⁶⁰ Stop the FOBTs campaign website: [The evidence](#) [accessed 22 April 2016]

⁶¹ Howard Reed, [Fixed odds betting terminals, problem gambling and deprivation: a review of recent evidence from the ABB](#), Landman Economics, April 2014, p7

⁶² NERA Economic Consulting, [The stake of the nation – balancing the bookies, Review of the Association of British Bookmakers’ Impact Assessment](#), Published by the Campaign For Fairer Gambling, April 2014

⁶³ Howard Reed, [The economic impact of fixed odds betting terminals](#), Landman Economics, April 2013, p18, italics in the original paper

The Triennial Review (2013)

The Department for Culture, Media and Sport's consultation on proposed changes to gaming machine stakes and prizes (the "triennial review") found there was "little material based on robust evidence received from those concerned about the social impact of B2 machines."⁶⁴ Further information on the Review process is set out below.

Consultation on stake and prize limits (January 2013)

In its January 2013 response⁶⁵ to the Culture, Media and Sport Committee report on the 2005 Act, the DCMS said it had published a consultation⁶⁶ on proposed changes to gaming machine stakes and prizes (the "triennial review").⁶⁷

In response to public concern about B2 machines, the consultation would also seek evidence on the risks associated with the machines.⁶⁸ The Government's preferred option was for B2 stake and prize limits to remain the same until "robust" evidence was gathered on their role in problem gambling.⁶⁹

Gambling Commission formal advice

Section 26 of the 2005 Act places a duty on the Gambling Commission to provide advice to the Secretary of State on matters relating to gambling regulation. In a letter to the Secretary of State, dated 20 June 2013, the Commission set out its formal advice on the triennial review.⁷⁰ On gambling-related harm, the Commission made the following observations:

- that machine gambling could be associated with particular risks for some people
- that an individual does not need to be a problem gambler in a clinical sense in order to experience harm – a combination of high stakes and natural game volatility can generate very significant losses in a short space of time
- that the often cited figure of an £18,000 loss per hour on a B2 machine was "astronomically improbable"

⁶⁴ DCMS, [Gambling Act 2005: triennial review of gaming machine stake and prize limits – government response](#), October 2013, p19

⁶⁵ [Government Response to the Select Committee Report: The Gambling Act 2005: A Bet Worth Taking?](#), Cm 8531, January 2013, p10

⁶⁶ DCMS, [Triennial Review of Gaming Machine Stake and Prize Limits; Proposals for Changes to Maximum Stake and Prize Limits for Category B, C and D Gaming Machines](#), January 2013. Under s236 of the 2005 Act, regulations made by the Secretary of State to define the different categories of gaming machine can include monetary limits on stakes and prizes applying to the different types of machine

⁶⁷ [Government Response to the Select Committee Report: The Gambling Act 2005: A Bet Worth Taking?](#), Cm 8531, January 2013, p10

⁶⁸ ["Government calls for evidence on links between problem gambling and B2 gaming machines"](#), DCMS press release, 15 January 2013, emphasis added

⁶⁹ DCMS, [Triennial Review of Gaming Machine Stake and Prize Limits; Proposals for Changes to Maximum Stake and Prize Limits for Category B, C and D Gaming Machines](#), see the table on p21

⁷⁰ [Letter from Philip Graf](#), Chair of the Gambling Commission, to Maria Miller, Secretary of State for Culture, Media and Sport, dated 20 June 2013

- that losing (and winning) large amounts of money on B2 machines was “well within the bounds of probability”
- that problem gamblers tend to take part in a large number of gambling activities (although whether this is a causal link is not known), to do so more regularly than normal gamblers and to spend more money and/or time doing so⁷¹

The Commission acknowledged that there was a “serious case” to answer in relation to B2s but said a precautionary reduction in stakes was “unsupported by the available evidence”.⁷²

RGSB advice

The Gambling Commission’s letter drew on advice from the RGSB. This noted the “regulatory dilemma” of balancing the enjoyment of the majority who gamble without experiencing harm with the protection of a minority who are at risk.⁷³

In its assessment of the evidence base, the RGSB found that:

- robust evidence, particularly in the British context, was scarce
- there was a complex relationship between gaming machines, gambling and problem gambling
- there were a number of areas where the international literature showed correlations and associations indicating the need for concern that machines provide an opportunity to generate greater levels of harm than other gambling products
- the nature of any correlations and associations was poorly understood – were there structural and situational characteristics of gaming machines that *cause* some players to become problem gamblers? Or were players who were already (or at risk of becoming) problem gamblers particularly *attracted to* machines as a gambling medium?
- there was some evidence that altering the structural and situational characteristics of machines could, in some circumstances, modify gambling behaviour and reduce harm (for example, slowing the speed of play, eliminating early big wins, and presenting pop up messages)⁷⁴

The RGSB looked at data from the British Gambling Prevalence Survey 2010 and said:

(...) there is a growing group of gamblers participating in machines in bookmakers who might be more at risk of problem gambling given that age, gender and income are all correlated with problem gambling. In addition, the evidence points to a

⁷¹ Ibid, p3

⁷² Ibid, p5

⁷³ RGSB, [Advice to the Commission on the Triennial Review consultation](#), June 2013, para 8.3

⁷⁴ Ibid, paras 9.2-9.5, footnotes removed

further high risk group of machine gamblers – multi-venue machine gamblers.⁷⁵

The paper noted the anecdotal reports of B2 players' staking behaviour and substantial losses but said:

...we do not know either how those losses are distributed, nor to what extent they are a result of problematic gambling behaviour. Nor is there enough certainty about the factors which influence a player's choice of stake to determine what an appropriate reduction in the stake limit would be, if that were thought desirable on policy grounds.

According to the RGSB, the "right course" was to try and clarify the answers to the above issues and that it was "incumbent on the industry to help bring some certainty to them".⁷⁶

Government response (October 2013)

In its October 2013 response to the triennial review, the Government recognised the potential for harm from playing B2 machines. It also acknowledged the "very significant public concern" about B2s and that gambling charities had indicated that a significant proportion of people reporting to them had problems with playing the machines.⁷⁷

However there would be no change to the maximum stake of £100. While it was clear that reducing stakes on B2 machines would have an adverse economic impact on the betting industry, the Government said it was not clear how great an impact a reduction would have on gambling related harm.

The Government acknowledged that there was a "serious case to answer" about the potential harm caused by B2s and that their future was unresolved.⁷⁸ It noted that the RGSB had identified "significant knowledge gaps" and that the "current lack of transparency around the impact of B2 gaming machines is something that the industry must address."⁷⁹

The Government said that it supported the RGT's research programme into category B machines.⁸⁰ Further detail on the RGT research is given in an appendix to this paper.

The summary of responses to the consultation refers to some of the evidence cited by those debating the role of B2s in problem gambling.⁸¹ The full set of responses can be found on the consultation's webpage.⁸²

⁷⁵ Ibid, para 9.15

⁷⁶ Ibid, para 11.7

⁷⁷ DCMS, [Gambling Act 2005: triennial review of gaming machine stake and prize limits – government response](#), October 2013, p19

⁷⁸ Ibid, p6

⁷⁹ Ibid, p18

⁸⁰ Ibid, p20

⁸¹ Ibid, pp12-8

⁸² DCMS, [Consultation on proposals for changes to maximum stake and prize limits for category B, C and D gaming machines](#) [accessed 22 April 2016]

The Categories of Gaming Machine (Amendment) Regulations 2014

Following the triennial review, the *Categories of Gaming Machine (Amendment) Regulations 2014* were approved on 4 December 2013 and made no change to the maximum stake on B2 machines.⁸³

⁸³ [HC Deb 4 December 2013 c1060](#)

6. Government announces player protection measures (April 2014)

Although the then Government said that it would be waiting for the results of the RGT research programme before making any decision on the future of B2 machines⁸⁴, the DCMS did publish a [document](#) on gambling protections and controls in April 2014.⁸⁵ This looked at planning and advertising issues as well as gaming machines.

On B2 machines, the document said:

(...) it is clear that some people have encountered considerable problems with their gambling despite the obligations on operators to supervise their customers. A combination of high stakes and natural game volatility (where the player might be encouraged by the odd small win to put at risk high stakes) can generate significant losses in a short space of time. We want players who use gaming machines to be in control of the choices they make. This is particularly important for users of category B2 gaming machines, where it is possible for individuals to place higher stakes.

For these reasons, the Government is adopting a precautionary approach to high stake gaming machines on the high street. Our measures are justified on a proportionate, targeted basis to help people remain in control of their gambling. At the heart of our approach are measures designed to give players better information, and to provide break points and pauses for thought to help people stay in control.

Customers wanting to access higher stakes (over £50) would be required to use account-based play or load cash over the counter.⁸⁶

6.1 Gaming Machines (Circumstances of Use) (Amendment) Regulations 2015

The *Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015* (SI 2015/121) came into force from 6 April 2015.

An [Explanatory Memorandum](#) to the Regulations said that customers would benefit from “improved interaction and more conscious decision making”:

7.5 Account-based play gives players access to up-to-date and accurate data in the form of activity statements and real time information about their session of play. This can reduce biased or irrational gambling-related decisions, and help people to maintain control. The Government considers that tailored player information (such as account summaries or activity statements) may be a particularly effective way of giving clear and accurate information regarding game play and patterns of net expenditure.

⁸⁴ See Helen Grant, Minister for Sport and Tourism, at [HC Deb 8 January 2014 c374-5](#)

⁸⁵ DCMS, [Gambling Protections and Controls](#), April 2014

⁸⁶ *Ibid*, p4

7.6 Making staff interaction a compulsory component of high staking machine play ensures greater opportunities for intervention where patterns of behaviour indicate that someone may be at risk of harm from their gambling, as well as for other reasons, such as preventing crime. There is evidence which indicates that regular interaction can give players a reality check. This approach emphasises consumer control which is particularly important given that some experts believe that a lack of control may be a determinant of problem gambling.

The Regulations mean that a customer cannot pay more than £50 for a single play on a B2 machine unless three conditions are met:

- the “identification condition” - after a customer has identified herself to an operator, payments made in respect of a stake of more than £50 can be made. Acceptable forms of ID include a customer card, pin number and password, or pre-paid card (e.g. smart card or ticket). In order to obtain one of these, the customer must verify her home address, e-mail address or telephone number
- the “supervision condition” – this allows payments made by a customer to be used to stake in excess of £50 if each such payment has been processed or approved as a result of a face to face interaction between the customer and staff acting on behalf of the operating licence holder. Before the first occasion on which a customer pays more than £50, this condition requires that each such payment is processed over the counter by staff on the premises. After that first occasion, subsequent payments may be processed by staff at the counter or be approved by staff at the gaming machine itself
- the “proceeds condition” - allows customers to stake in excess of £50 by applying a money prize won on the B2 machine. A money prize satisfies this condition if it was won as the result of one or more payments made to that machine which satisfied the identification condition or the supervision condition, or the application of one or more money prizes won as a result of payments made to that machine which satisfied those conditions. Each such prize must have been accumulated through playing the machine, and be held in the credit meter of that machine⁸⁷

Evaluation of the Regulations (January 2016)

In January 2016, the DCMS published an [evaluation](#) of the *Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015*.

Player control

On player control, the evaluation found that:

- despite marketing campaigns, there had been a relatively low uptake of verified accounts
- over the counter authorisation of stakes over £50 appeared to happen in a very low percentage of sessions

⁸⁷ These paragraphs based on the [Explanatory Memorandum](#) to [SI 2015/121](#)

- the evidence showed a large number of players opted to stake below £50 and increase the duration of their session in response to the Regulations⁸⁸

There had been changes in the amount bet in stakes and at what range:

There has been a consequent fall in the two quarters since the regulation was implemented of about £6.2bn in the amount bet in stakes over £50 from 2014 to 2015 for Q2 and Q3. There has also been a £5.1bn increase in the total amount staked at the £40-£50 range for the two quarters since the regulation was implemented. This is an overall decrease of approximately 10.1% in the amount staked over £40 in 2015 Q2 and Q3 compared to 2014 in nominal terms.⁸⁹

This could be interpreted as either:

- i. Players circumventing authorisation of higher stakes to maintain their anonymity with no associated increase in control of their play or;
- ii. Those who are no longer staking over £50 are doing so because the authorisation mechanisms have given them greater control over their staking behaviour. In this respect it could be said to be increasing player control in line with the policy's objective.

- An increase in duration of play for those staking exclusively under £50 could also reflect more considered playing behaviour, but there is not conclusive evidence this is the case.
- If players are taking longer time between plays, longer session duration may simply be driven by more considered decision making. Equally if some people are increasing the duration of their play, but the speed of the play has increased, this might indicate that they are now taking less time to consider their actions and control is reduced. Gaming machine suppliers have been able to provide some data on speed of play. They found the speed of play for B2 roulette in the 10 weeks pre-implementation averaged 37.22 seconds whilst for the first 21 weeks post-implementation it was 37.33 seconds. This suggests on average the speed of play for B2 roulette, which form the majority of B2 play, has undergone minimal change. What is not apparent from this data is whether some people are playing slower and some faster and it is averaging out at a similar speed...⁹⁰

Impact on business

The evaluation noted the difficulties in estimating the impact on revenue due to the possible impact of other measures:

The revenue impact on business is likely to be larger than the implementation costs. However, attribution is difficult, with many other factors at play such as the introduction of responsible gambling measures and changes to the gambling duty regime, making it hard to separate the impact of the regulation compared to the effect of the other interventions. It is also not possible to draw any conclusions about the medium and long term impact on the industry. Operators may adjust their products and consumers

⁸⁸ DCMS, *Evaluation of Gaming Machine (Circumstances of Use) (Amendment) Regulations 2015*, January 2016, pp2-3

⁸⁹ *Ibid*, p3

⁹⁰ *Ibid*, p3

may adjust their behaviour so the effects we have seen in the first two quarters may not be representative going forward...⁹¹

What has the Government said?

In response to a number of parliamentary questions on B2 machines, the Government has said that the evaluation of the 2015 Regulations “indicates that a large proportion of players of FOBTs may now be making a more conscious choice to control their playing behaviour and their stake level. We will now consider the findings of the evaluation before deciding if there is a need for further action”.⁹²

⁹¹ Ibid, p4

⁹² See, for example: [PO 24920](#), answered 3 February 2016; [HL5089](#), answered 29 January 2016

7. Betting industry initiatives

7.1 ABB code of practice

An ABB *Code for responsible gambling and player protection in licensing betting offices* was published in September 2013.⁹³ The measures relating to gaming machines are set out in chapter 4 and came into operation from 1 March 2014. These include suspensions in play if voluntary time and money limits are reached; mandatory alerts that tell players when they have been playing for 30 minutes or when £250 has been spent; training staff to recognise the opportunity to interact with customers repeatedly loading money; and no longer siting cash machines that can be used from with a betting shop.⁹⁴

Additional measures were introduced in November 2014; these require gaming machine customers to make a choice as to whether they wish to set a time and/or money limit.⁹⁵

A Responsible Gambling Committee reviews compliance with the Code and makes recommendations as necessary.⁹⁶

NatCen evaluation of the Code

A NatCen [evaluation](#) of the early impact of the Code was published in December 2015.⁹⁷ This used transactional data recorded by machines for registered loyalty card users so that potential differences in previous gambling history could be taken into account. The West Midlands was used as a comparison area because it did not implement the Code until April 2014. Impact estimates could therefore be calculated for March 2014.

The evaluation explored the impact of the Code on four outcomes:

- The length of time spent gambling on machines during a session of play;
- The amount of money gambled on machines during the session;
- The proportion of machine gambling sessions which lasted 30 minutes or more; and
- The proportion of machine gambling sessions in which individuals inserted £250 or more into the machine.

⁹³ Association of British Bookmakers, [Code for responsible gambling and player protection in licensing betting offices in Great Britain](#), September 2013

⁹⁴ Ibid, pp13-5

⁹⁵ To be achieved via a mandatory message requiring the player to either select limits or not and, for those who choose not to, automated machine alerts will be generated following 30 minutes of game play or, following the loss of £250: ["Bookmakers announce further player protection measures"](#), ABB News, 3 November 2014

⁹⁶ Ibid, p3

⁹⁷ Sergio Salis et al, [ABB Code for Responsible Gambling and Player Protection: evaluation of early impact among machine gamblers](#), NatCen, May 2015

The evaluation did not find any statistical evidence that the Code had an impact on the four outcomes. However it said that it would be “premature” to draw any conclusions about the Code’s effectiveness:

(...) Because of funding constraints, this study only looked at a very narrow range of outcomes and was limited to analysing data from machines. We did not consider the broader impact of staff interventions specifically or of responsible gambling messaging, nor the impact of these elements of the Code on non-machine gamblers.

There are a number of recommendations for further evaluation. This includes research to understand why people do not set voluntary limits on machines, what the right level is at which mandatory messages on machines are triggered, as well as further evaluation of the impact of changes in staff training, and responsible gambling advertising across all gamblers in bookmakers.⁹⁸

7.2 Senet Group

The Senet Group, founded by [William Hill](#), [Ladbrokes](#), [Coral](#) and [Paddy Power](#), was launched in September 2014.⁹⁹ Membership is open to any gambling operator. The Group’s members have committed to adhere to industry codes of practice, including that of the ABB. They have also pledged not to advertise gaming machines in betting shop windows and to dedicate 20% of shop window advertising to responsible gambling messages.¹⁰⁰

The Group can “name and shame” operators who breach the above commitments as well as imposing fines. Gambling operators who repeatedly breach the code will not be able to use the Senet Group logo and could be expelled from the Group.¹⁰¹

7.3 Self-exclusion schemes

It is a requirement of the Gambling Commission’s [licence conditions and codes of practice](#) that gambling operators offer customers the opportunity to prevent themselves from gambling by “self-excluding”. The minimum period of time is six months. Responsibility for continuing to self-exclude lies with the customer although gambling operators should do all they “reasonably can” to help.

A trial scheme in Chatham involving the ABB and Medway Council was announced in November 2014.¹⁰² The scheme allows anyone with a gambling problem to exclude themselves from every betting shop in the town. This is different to existing schemes that only enable someone to exclude themselves from one specific operator.

⁹⁸ Ibid, p4

⁹⁹ “[Gambling industry responds to public concerns](#)”, Senet Group News release, 15 September 2014

¹⁰⁰ Senet Group website: [About us](#) [accessed 22 April 2016]

¹⁰¹ Senet Group website: [How we work](#) [accessed 22 April 2016]

¹⁰² “[Medway’s responsible gambling partnership will protect problem gamblers](#)”, ABB News, 12 November 2014

By June 2015, twenty-three people had excluded themselves from all gambling shops in Chatham.¹⁰³

A self-exclusion scheme, backed by the ABB and Glasgow City Council, now operates across Glasgow.¹⁰⁴

Further information on self-exclusion is available from the Gambling Commission [website](#) and GamCare's [website](#).

7.4 Player awareness scheme

In December 2015, the ABB announced details of a new Player Awareness Scheme (PAS):

PAS is a response to the RGT's ground-breaking December 2014 research that showed it was possible to distinguish between problem and non-problem gambling behaviour by players using gaming machines in licensed betting offices. All members of the ABB have signed up to the initiative, which is believed to be a world first in retail betting.

How PAS works

- Systems analyse the behaviour of those playing on gaming machines when they are logged in to a customer account
- Customer behaviour is then assessed against a range of markers of problem gambling
- Alerts (via text, email, or on-screen) can subsequently be sent to players. These include signposting to responsible gambling tools such as setting limits on machines or self-exclusion, and directing customers towards the National Gambling Helpline / gambleaware.co.uk or to speak to a member of staff
- PAS encourages customers to think about how they are gambling. Continued problematic play may result in direct interaction from a member of staff
- Currently, a variety of analytical algorithms are being used by member companies which will ultimately lead to more effective processes for each operator as best practice and learnings are shared
- PAS will be independently evaluated during 2016

The initiative was developed during 2015 by an ABB-led working group that included representatives of Coral, Ladbrokes, Paddy Power, William Hill and machine manufacturers SG and Inspired (on behalf of independent bookmakers) with the RGT and Gambling Commission as observers.¹⁰⁵

On 18 April 2016, the RGT announced that it had commissioned PricewaterhouseCoopers to evaluate the PAS.¹⁰⁶

¹⁰³ ["Medway Responsible Gambling Partnership – six months of progress"](#), ABB News, 4 June 2015

¹⁰⁴ ["Betting shop exclusion scheme expanded across Glasgow"](#), BBC News, 5 October 2015

¹⁰⁵ ["Player Awareness System launched by bookmaking industry: New responsible gambling initiative"](#), ABB News, 9 December 2015

¹⁰⁶ ["Betting industry to open up machine data for independent evaluation by PricewaterhouseCoopers"](#), RGT press statement, 18 April 2016

8. What now?

B2 machines remain controversial and continue to generate headlines.¹⁰⁷ What, if anything, is happening now?

8.1 Government policy

The Government has said that it will consider the findings of the evaluation of the Regulations introduced in 2015 “before deciding if there is a need for further action”.¹⁰⁸

July 2015 response to Newham Council action

The *Sustainable Communities Act 2007* (as amended) permits local authorities to make proposals to the Government for policy changes to facilitate the creation of sustainable communities.¹⁰⁹

In November 2014, Newham Council lodged a proposal with the Department for Communities and Local Government (DCLG), demanding that the Government reduce the maximum stake on B2 machines to £2.¹¹⁰ The proposal was supported by 93 councils - 31 from London and 62 others from around the country.

The Government rejected the proposal on 15 July 2015. In a letter to Newham Council, Marcus Jones, Minister for Local Government, said:

(...) the Government currently does not support calls set out in the submission for a reduction in stake size on B2 gaming machines. We are not convinced that local authorities have yet made the most of the powers that are already available to them under either planning or gambling law.

(...) In terms of gambling...it is perhaps an uncomfortable reality that every one of the betting shops that collectively have given rise to the concern at the heart of the submission relies on a premises licence granted by the local authority itself. While local authorities are bound by law to aim to permit gambling insofar as reasonably consistent with the licensing objectives...the licensing process gives authorities considerable scope to attach additional conditions to licences where that is necessary to achieve the licensing objectives; to review licences once they have been granted; and power to impose licence conditions after review.¹¹¹

¹⁰⁷ “Violence, debt and devastation brought by the spin of a wheel”, *Times*, 17 February 2016, pp10-11; [“GPs are being forced to prescribe anti-addiction drugs to wean gamblers off betting”](#), *Daily Mail*, 17 February 2016; [“Britain’s leading gambling charity at centre of conflict of interest claims”](#), *Independent*, 19 February 2016; For the response of the Gambling Commission to these stories see: [Open letter to Daily Mail](#) (dated 22 February 2016) and [Open letter to the Times](#) (dated 19 February 2016); For the response of the RGT see: [“RGT responds to articles in the Times”](#), Press statement, 17 February 2016; [“RGT responds in detail to article published in The Times newspaper”](#), Press statement, 19 February 2016; [“RGT response to article in The Independent”](#), Press statement, 20 February 2016; The Charity Commission published a [statement](#) on the RGT on 17 February 2016

¹⁰⁸ [PQ 24920](#) (answered 3 February 2016) and [PQ 33654](#) (answered 19 April 2016)

¹⁰⁹ The current procedure falls under the *Sustainable Communities Act 2007 (Amendment) Act 2010*; Further background is available in the Library’s briefing paper, [The Sustainable Communities Act 2007](#) (SN04724, 4 October 2013).

¹¹⁰ [“Newham Council leads 93 councils in call to curb casino-style gambling on the high street”](#), Newham Council News, 28 November 2014

¹¹¹ Letter published on the [Barrier busting website](#)

8.2 Scotland

[Section 52](#) of the *Scotland Act 2016* devolves legislative competence in relation to gaming machines authorised by a betting premises licence where the maximum charge for a single play is more than £10. Given the current stake limits on gaming machines, this only applies to category B2 machines.

Section 52 amends the *Gambling Act 2005* so that Scottish Ministers will be able to vary the number of machines allowed on betting premises. This will require an Order subject to the affirmative procedure. The power would only apply to applications for new premises licences and does not include betting premises licences issued in respect of a track.

8.3 Lords Private Members' Bill

On 3 June 2015 Lord Clement-Jones (Liberal Democrat) introduced¹¹² a Private Members' Bill, the [Gambling \(Categorisation and Use of B2 Gaming Machines\) Bill \[HL\] 2015-16](#).¹¹³

The Bill would reduce the maximum individual charge for a single play on a B2 machine from £100 to £2. The Bill would allow for the maximum charge to be reviewed every three years and, if required, to be amended in line with inflation. The Second Reading [debate](#) took place on 11 March 2016.¹¹⁴

8.4 Ongoing research

The Responsible Gambling Trust has an ongoing research programme looking at gambling-related harm.

On 19 April 2016, the RGT announced that it was commissioning a research project to study the cost of gambling-related harm to Government. The [invitation to tender](#) gives further detail on the purpose of the project.¹¹⁵

Further information on other RGT commissioned research can be found on its [website](#) and a Responsible Gambling [InfoHub](#).

The RGT hosts an annual "harm minimisation in gambling conference". This is usually held in December and is attended by academics, campaigners, industry representatives, and policy makers. A summary of the 2015 conference is available [online](#).¹¹⁶

¹¹² [HL Deb 3 June 2015 c416](#)

¹¹³ ["Lord Clement-Jones launches Bill to cut FOBT stakes"](#), Lord Clement-Jones official website, 5 June 2015

¹¹⁴ [HL Deb 11 March 2016 c1524-1556](#)

¹¹⁵ RGT, [A study of the costs to government of Gambling-Related Harm in Great Britain Invitation To Tender](#), April 2016

¹¹⁶ RGT website, [Harm minimisation in gambling: progress and prospects](#) [accessed 22 April 2016]

Appendix: Responsible Gambling Trust research

The RGT is a national charity “committed to minimising gambling-related harm.” It funds education, prevention and treatment services as well as commissioning research.¹¹⁷ The RGT is financed through a system of voluntary donations from the gambling industry and raises a minimum of £5 million each year. Funding priorities are guided by the national strategy advised by the RGSB and endorsed by the Gambling Commission.¹¹⁸ The latest strategy was published in April 2016.¹¹⁹

In 2013 the RGT commissioned research into category B machines. The research was carried out by NatCen Social Research.¹²⁰

First phase

The first phase of the research sought to understand what types of data gambling operators held on category B machines and how this could be used for research purposes.¹²¹ A paper setting out the findings was published in December 2013 and identified three different types of data:

- transactional data – financial accounting data that monitor what money is put into the machine and what money is paid out
- player tracking data – data generated from loyalty card programmes that records a unique session of play for an individual
- proxy session data – transactional level data that have been sliced up into discrete chunks based on rules of what might constitute the start and end of a session of play¹²²

The paper noted the “complexities, inconsistency and gaps”¹²³ within the data and that that “industry-held data should be viewed as contributing to the researcher’s methodological toolkit but does not and cannot answer all research and policy questions in this area”.¹²⁴

Second phase

The second phase of the research, announced in February 2014, focused on two questions posed by the RGSB:

- is it possible to distinguish between harmful and non-harmful gaming machine play?

¹¹⁷ RGT website: [About](#) [accessed 22 April 2016]

¹¹⁸ Ibid

¹¹⁹ Responsible Gambling Strategy Board, [Strategy 2016/17 to 2018/9](#), April 2016

¹²⁰ [NatCen Social Research](#) had previously conducted the Gambling Prevalence Survey

¹²¹ NatCen Social Research, [Scoping the use of industry data on category B gaming machines](#), Prepared for the Responsible Gambling Trust, December 2013, p7

¹²² Ibid, pp3-4

¹²³ Ibid, p4

¹²⁴ Ibid, p5

- if it is, what measures might limit harmful play without impacting on those who do not exhibit harmful behaviours?¹²⁵

A paper summarising the project made clear that the research would be involved with identifying patterns of play that suggest probabilistically that harm might be experienced. It also noted that there was a continuum of harm rather than a dichotomy of harmless vs. harmful.¹²⁶

To achieve its objectives, the RGT adopted a two-step approach:

- scoping the theoretical markers/metrics of harm, and evaluating the type of player-tracking data held by industry-operators – to determine if relevant markers of harm could be identified
- exploration of industry-held transactional data linked to information obtained from loyalty card players to validate harmful behavioural patterns of play¹²⁷

Research published, December 2014

The RGT published seven research reports in December 2014.¹²⁸

The Machines Research Oversight Panel (MROP, a governance body made up of independent academics to evaluate the objectivity and quality of the research programme) said the reports were “instrumental” in providing evidence that there are patterns of play that can be used to identify problem gambling. The next step would be to determine the “nature, severity and chronicity of harms” associated with problem gambling to enable more targeted campaigns directed toward high risk and vulnerable people.¹²⁹

MROP acknowledged the complexities and difficulties in using data from an unrepresentative group of players - loyalty card holders:

These data are based on an unrepresentative group of players, that is, players electing to use loyalty cards during play. Approximately 10% of bets are registered plays. The findings indicate loyalty card-holders are more involved players and have high rates of problem gambling and at-risk gamblers. It remains unknown whether unregistered players exhibit typical profiles. Accordingly, policy makers need to be cautious in implementing responsible gambling interventions on the basis of non-representative populations.

Rather than providing clear findings that can definitively inform policies, the Reports attest to the complexities and difficulties in using existing data derived from non-representative samples. The combination of behavioural markers of harm, although able to predict problem gamblers to some extent, currently offers limited sensitivity and specificity to allow effective policies that target only

¹²⁵ Responsible Gambling Trust, [B2 Gaming Machines Research Programme \(Stage 2\)](#), February 2014, p1

¹²⁶ Ibid, p1

¹²⁷ Alex Blaszczyński, [An investigation into gaming machines in licensed betting offices: exploring risk, harm and customer behaviour: a view from the Machines Research Oversight Panel](#), Responsible Gambling Trust, December 2014, p1

¹²⁸ “Ground-breaking research distinguishes problem and non-problem play on gaming machines”, Responsible Gambling Trust press statement, 1 December 2014; the reports are available from the [research section](#) of the RGT website

¹²⁹ Alex Blaszczyński, [An investigation into gaming machines in licensed betting offices: exploring risk, harm and customer behaviour: a view from the Machines Research Oversight Panel](#), p3

problem gamblers. This means that decisions currently need to be made by regulators in policies that trade-off capturing problem gamblers and minimising interference with recreational players...¹³⁰

According to MROP, it would be “inadvisable” to rush policies on the basis of the research:

Rather, consideration needs to be given to the development of a strategic blueprint of evaluative studies that are applied in a logical and coherent manner over the next five to ten years. This is not to suggest a ‘do nothing’ approach in the meantime. The implication is that more will be achieved by a strategic approach compared to fragmented, disjointed and potentially costly policies that fail to achieve their objective.¹³¹

What did the individual reports find?

The main findings and limitations of each report are set out in single page summaries.¹³² Very brief overviews are given below.

Report 1

The first report looked at the different patterns of play that could be considered harmful and that might be recorded in industry data.¹³³ It identified nineteen different potential markers of harm: these included patterns of play that could be measured across time (such as frequency of machine gambling), those that might be observed within a single session of play (such as exhausting funds on a debit card) and those that were more contextual (such as how a person behaves whilst gambling on machines). The report said, amongst other things, that further contextual information about the person, their circumstances and their broader gambling would be vital in identifying those most at risk of harm.

Reports 2 and 3

These reports surveyed and analysed a random sample of loyalty card holders who had gambled on machines in betting shops.¹³⁴ This was the first time that the five largest bookmakers in Great Britain had made their data available for analysis by independent researchers. The reports found that it was possible to distinguish between harmful and non-harmful gaming machine play. Evidence from the studies also showed that focusing on one element of gambling (such as a reduction in stake size) would not provide a better prediction of problem gambling or reduce rates of gambling harm: problem gambling is complex and all interventions should be tested and evaluated for efficacy. The authors cautioned that loyalty card holders were “more engaged than non-

¹³⁰ Ibid, p3

¹³¹ Ibid, p3

¹³² Responsible Gambling Trust, [Single page summaries of research on gaming machines in betting shops](#), December 2014

¹³³ Heather Wardle et al, [Theoretical markers of harm for machine play in a bookmaker’s: a rapid scoping review](#), NatCen Social Research, April 2014

¹³⁴ Heather Wardle et al, [Identifying problem gambling: findings from a survey of loyalty card customers](#), NatCen Social Research, November 2014; David Excell et al, [Predicting problem gamblers: analysis of industry data](#), FeatureSpace, November 2014

loyalty customers, and therefore the results are skewed towards those who may already be at a higher risk of harm”.

Report 4

This report aimed to document patterns of play on category B machines and found that:¹³⁵

- the average stake per bet was £5.13. However for B2 games, the average stake was £14.08 per bet. Stake size was lower in more deprived areas. Size of stake varied by time of day and was over £10 per bet on average for those playing after 10pm at night. For B2s, 3% of sessions involved betting at the maximum £100 stake. This rose to 6% after 10pm and meant that 5.4 million machine play sessions (out of 178 million) included a £100 stake
- between 70-80% of sessions resulted in an overall loss to the gambler. On average, gamblers lost £7 per session. However, there was a broad range and net expenditure varied based on what type of game people were playing
- sessions lasted 11 minutes on average. Session length was considerably longer when people played both B2 and B3 games (around 23 minutes on average)
- B2 games were the most popular. 73% of all bets were on a B2 games and roulette was the most popular type of B2 game. The popularity of B2 games increased throughout the day and by 10pm over 81% of sessions were B2 games only

A number of regional differences were identified: for example, in London stake sizes were higher and session lengths longer.

Report 5

The fifth report was based on a lab-based experiment conducted with 32 regular non-problem gamblers who were given money to gamble on a simplified version of virtual roulette. Higher stakes were found to impair decision-making quality - increasing the risk of spending more money or time than intended.¹³⁶ The authors noted that in non-laboratory settings, stake size would interact with other game-related and environmental factors (for example, speed of play, social interaction) and that these could be examined in future research.

Report 6

This looked at machine players’ understanding of the ‘return-to-player’ (RTP) messaging displayed on gaming machines. These messages advertise what proportion of the money paid into the machine is returned to players in prizes over time, and are intended to promote responsible gambling. A small-scale study involving 25 players found that RTP messages were not well understood due to the use of technical language, mathematical concepts, and the provision of messages in English only.¹³⁷

¹³⁵ Heather Wardle et al, [Patterns of play: analysis of data from machines in bookmakers](#), NatCen Social Research, November 2014

¹³⁶ Andrew Parke et al, [The role of stake size in loss of control in within-session gambling](#), Responsible Gambling Trust, 2014

¹³⁷ Debbie Collins et al, [Understanding of return to player messages: findings from user testing](#), NatCen Social Research, October 2014

Report 7

The final report explored changes in machine gaming behaviour among participants to either the Health Survey for England 2012, the Scottish Health Survey 2012 or the British Gambling Prevalence Survey 2010.¹³⁸

The report's findings included:

- rates of starting to play machines in betting shops were highest among those aged 18-34 (9%) and lowest among those aged 55 and over (1%)
- those with lower incomes (7% for those in the lowest income quintiles) were more likely to play machines in betting shops than those with higher incomes
- 50% of those who previously gambled on machines now no longer did so. 63% who had previously only gambled on machines in a betting shop had not done this in the study
- women were more likely to have stopped playing machines (57% for women, 45% for men)
- men were more likely to have changed their type of machine they gambled on than women (23% for men, 8% for women)

The report concluded that responsible gambling interventions should reflect the diverse range of experiences among machine players at any given time (ie with people starting, stopping and switching machine).

The independence of the research

The way the RGT is funded – through donations from the gambling industry – led some to question the independence of its research programme.

An April 2014 Goldsmiths University report¹³⁹ claimed that “the idea of ‘problem gambling’ was politically useful”:

(...) It focuses attention on individual gamblers, rather than relationships between the industry, the state, products and policies

Gambling research is heavily dependent on industry support

Funding programs prioritise banal questions: researchers are not free to devise critical alternatives unless they wish to remain unfunded

There is a lack of transparency about the influence of industry on research and no professional code of conduct governing these relationships

The industry has the most accurate and informative data but rarely shares this with researchers¹⁴⁰

¹³⁸ Heather Wardle & Dan Philo, [Changes in machine gambling behaviour: headline findings from a follow-up study of participants to the Health Survey for England 2012, Scottish Health Survey 2012 and the British Gambling Prevalence Survey 2010](#), November 2014

¹³⁹ Goldsmiths University, [Fair game: producing gambling research](#), April 2014

¹⁴⁰ Goldsmiths University [webpage](#) on the Fair Game report [accessed 22 April 2016]

Rebecca Cassidy, the lead researcher, said: “the gambling industry, charities that are funded by contributions from the industry, and the government have too much influence over research”.¹⁴¹

In January 2014, a *Guardian* article claimed that the gambling industry was not co-operating with the research.¹⁴² The RGT responded in an open letter, saying that it was “completely false to argue that the industry is now frustrating our research programme”.¹⁴³

In a written parliamentary response of 10 April 2014, Helen Grant, the then Minister for Sport and Tourism, said the Government was “satisfied of the integrity of the research programme”.¹⁴⁴

On commissioning research, the RGT acknowledges the “need to generate widespread trust and credibility in an industry-funded body” and states that it does so in the following ways:

- Appointing wholly independent trustees

- Inviting the Government, the Gambling Commission and the RGSB to observe Responsible Gambling Trust board and committee meetings

- Publishing details of how funds will be distributed each year guided by the RGSB's rolling three-year strategy as endorsed by the Gambling Commission

- Ensuring research is commissioned via an independent research committee in consultation with the RGSB

- Seeking advice from external experts in collaboration with the RGSB¹⁴⁵

Gambling Commission formal advice on the research

In March 2015, the Gambling Commission published [formal advice](#) to the Secretary of State. This said that the RGT research supported the case for “more targeted methods of regulating gambling that place more emphasis on the way that players interact with gambling products and environments”. This could improve the prospects for protecting players while allowing the gambling industry to innovate and grow.¹⁴⁶

However, for a strategy based on targeted intervention to be successful, the industry would have to demonstrate that it could identify those at risk of gambling related harm without unduly disrupting the play of those who can gamble responsibly. The Commission therefore recommended encouraging operators to promote account-based play with the aim of increasing uptake significantly:

- The research suggests that gambling operators are more likely to identify people at risk where they can build up a picture of a player from a broad range of evidence, including the customer's

¹⁴¹ Ibid

¹⁴² [“Bookmakers must hand over gambling machine for testing, say ministers”](#), *Guardian*, 29 January 2014

¹⁴³ [“Open letter to the Guardian”](#), Responsible Gambling Trust, 3 February 2014

¹⁴⁴ [HC Deb 10 April 2014 c311W](#)

¹⁴⁵ RGT website: [About](#)

¹⁴⁶ Gambling Commission [letter](#) to Secretary of State for Culture, Media and Sport, 30 March 2015, p1

patterns of play over time. It is hard to do that when the majority of gambling transactions are currently from anonymous play. Moreover, the much richer information that account-based play provides would significantly improve the industry's ability to evaluate its efforts to identify and mitigate risk.

If there was a significant uptake in account-based play, anonymous play could itself become an indicator of risk.

The Commission said that if sufficient progress wasn't made in promoting account-based play, the case for making it mandatory would need "very serious consideration". This would involve wider societal debate about the balance of costs and benefits and issues such as personal privacy, the "freedom to indulge or over-indulge", and balancing the enjoyment of the many against sometimes severe harm to the few.

On stake size, the Gambling Commission's advice said that while this can be a factor in gambling-related harm, the RGT research reinforced the Commission's view "that interventions focusing on stake size exclusively are unlikely to be effective".¹⁴⁷

¹⁴⁷ Ibid, p2

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LEGISLATION AND CASELAW UPDATE

Committee	Licensing Committee
Officer Contact	Beejal Soni, 01895 556351
Papers with report	Appendix 1 - Select Committee "Call for Evidence"
Ward(s) affected	All

HEADLINE

This report provides an update for Members on recent caselaw and legislative developments.

RECOMMENDATION

That the Committee notes the update.

SUPPORTING INFORMATION

1. Legislation Update

The Immigration Bill received Royal Assent in May and so became the Immigration Act 2016. There are a number of requirements contained within Schedule 4 of the Immigration Act 2016 which will have an effect on licensed premises. Members are advised that the provisions relating to the powers of immigration officers to enter premises to investigate and the offences of illegal working and employing illegal workers come into force on 12 July 2016. The Home Office has advised that it is likely that changes to the licensing acts will be implemented in Spring 2017, subject to approval of the amendment to the licensing legislation and their accompanying regulations.

The principal points of note that arise from the Immigration Act 2016 are summarised below.

Premises Licence applications

- Individuals resident in the UK will not be able apply for a premises unless the individual is entitled to work in the UK.
- The Secretary of State will become a Responsible Authority where the premises is or proposes to sell alcohol by retail or provide late night refreshment.

Premises Licence lapse

- Premises licences will lapse if the licence holder ceases to be entitled to work in the UK whilst resident in the UK (or becomes resident without being entitled to work).

Premises Licence transfers

- Individuals resident in the UK will not be able apply for a licence transfer if the licence authorises the sale of alcohol or late night refreshment (neither may they give an interim authority notice) unless the individual is entitled to work in the UK.

- The Secretary of State will need to be served with a copy application (where the premises sells alcohol by retail or provides late night refreshment) and will have 14 days to object if satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises.
- In a hearing convened due to the Secretary of State's objection, the Licensing Authority must reject the transfer application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.

Personal licences

- Those not entitled to work in the UK will not be able to apply for a personal licence.
- All Immigration offences under "any of the Immigration Acts" become a relevant offence for the purposes of a personal licence application.
- Immigration penalties contrary to *s15 Immigration, Asylum and Nationality Act 2006* or *s23 Immigration Act 2014* also become disclosable, subject to certain exceptions.
- The Secretary of State will need to be served a copy of the application if the applicant has an unspent immigration offence, foreign offence equivalent or has been required to pay an immigration penalty. The Secretary of State will have 14 days to object to application.
- In a hearing convened due to the Secretary of State's objection, the Licensing Authority must reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.
- There will be a new duty for personal licence holders to inform the Licensing Authority if required to pay an immigration penalty.
- A personal licence will cease to have effect if the holder ceases to be entitled to work in the UK.

Rights of Entry

- Immigration officers, like police officers, will be able to enter premises (selling alcohol or providing late night refreshment) with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of the licensable activity.

Closure Notices (schedule 6)

- The new Act creates new powers of *illegal working closure notices* and *illegal working compliance orders*. It is not clear whether these new powers will be implemented in Spring 2017 or earlier. Very briefly:

An *Illegal Working Closure Notice* will be able to be issued by a Chief Immigration Officer (or more senior) in certain circumstances but principally due to an illegal worker being at the premises (which is further defined in the Act). The Notice will prohibit for a period specified:

- I. access to the premises other than by a person who habitually lives on the premises; and
- II. paid or voluntary work being performed on the premises, except where so authorised.

The Closure Notice will be able to last up to 24 hours or up to 48 hours if issued by an immigration inspector (or higher).

Unless cancelled, the Court must, within 48 hours, hear an application for an *Illegal Working Compliance Order*. The Court can make any such order that it deems appropriate including

- I. requiring right to work checks to be carried out
- II. requiring right to work documents to be produced and specifying times for an immigration officer to enter the premises
- III. prohibiting access to the premises

The Court will notify the licensing authority of the order and the licensing authority must then review the premises licence. If an offence is committed in relation to the compliance order, the Court can impose a prison sentence for up to 51 weeks or a fine.

An *Illegal Working Compliance Order* will be able to last for 12 months albeit they may be extended but cannot be in force for a period exceeding 24 months in total.

2. Caselaw Update

East Lindsey District Council -v- Abu Hanif (t/a Zara's Restaurant)

In *East Lindsey District Council v Abu Hanif (a licensed restaurant and takeaway)*, a High Court Judge has restored a licensing authority's decision to revoke a premises licence for employment of an illegal worker.

The restaurant traded in East Lindsey. The owner and licensee was Mr Hanif. After a raid by the immigration authorities, it was discovered that Mr Hanif was employing an illegal worker.

The Police brought review proceedings and the licensing authority revoked the premises licence. Mr Hanif appealed. At the appeal, which was heard by District Judge Veits, Mr Hanif's counsel argued before the District Judge that, since Mr Hanif had not been prosecuted for employing an illegal worker under section 21 Immigration, Asylum and Nationality Act 2006, but had merely been given a civil penalty under section 15 of that legislation, the crime prevention objective was not engaged.

The Magistrates Court appeal established that Mr Hanif had employed the illegal worker without paperwork showing a right to work in the UK, he had paid him cash in hand, he paid him less than the minimum wage, he did not keep or maintain PAYE records and that, while he had deducted tax from the worker's salary, he failed to account to the HMRC for the tax deducted.

The District Judge hearing the appeal at the Magistrates Court held that, because prosecution proceedings had not been brought and no crime had been reported, the crime prevention objective was not engaged and that, in any event, the failure to pay the minimum wage had not been the main basis of the licensing authority's decision.

The council appealed by way of case stated. It argued that it is not necessary for a crime to have been reported, prosecuted or established in a court of law in order for the crime prevention objective to be engaged. The licensing objectives are prospective and are concerned with the avoidance of harm in the future.

The matter came before Mr Justice Jay at the High Court. He accepted all of the council's arguments. In his view, there was clear evidence of the commission of criminal offences, both in relation to the non-payment of the minimum wage and also tax evasion. As for the offence of

knowingly employing an illegal worker, he considered that, based on the fact that the employee could not provide the requisite paperwork, a national insurance number or a tax code, the clear inference was that Mr Hanif well knew that he was employing an illegal worker. A deterrent approach was justified on the facts.

Mr Justice Jay decided that remission of the case to the Magistrates' Court was not appropriate since he considered that the council's decision to revoke was clearly correct. In reaching that decision, the Learned Judge pointed out that employing an illegal worker involves not only defrauding the Revenue, but also the exploitation of vulnerable individuals including, here, by not paying them the minimum wage.

The Learned Judge ordered Mr Hanif to pay costs in the High Court in the sum of £15,000 and ordered costs of the Magistrates' proceedings in the sum of £4,000.

3. Select Committee to Investigate the Effectiveness of the Licensing Act 2003

The House of Lords Select Committee investigating the effectiveness of the Licensing Act 2003 has published a call for evidence. The committee has also appointed Sarah Clover, a barrister at Kings Chambers, to be its specialist legal adviser.

Areas that the committee has said it will look at include:

- the balance between rights and responsibilities of both the industry and the public;
- the powers of enforcement authorities, including the police;
- the impact that any greater availability of alcohol has had on the health of the population;
- whether the Act has made it easier or harder for communities to enjoy activities that have to be licensed under the Act;
- the role of licensing in shaping local areas, for the benefit of the economy and the local community;
- minimum unit pricing and its potential impact; and
- fees and costs associated with the Act.

Baroness McIntosh of Pickering, Chairman of the Select Committee, said: "The Licensing Act 2003 enabled premises to serve alcohol for 24 hours a day, 7 days a week. While many heralded the Act as the start of a more continental drinking culture, others predicted round-the-clock consumption, leading to disorder and a deterioration in public health.

"But what has the reality actually been like? Has deregulation allowed the drinks industry to thrive? Have drinkers embraced a more relaxed and healthier approach to alcohol? What happened to the anticipated café culture?"

"For good or ill, the Licensing Act has altered the drinking landscape of England and Wales, but an examination of the changes is long overdue. I would therefore encourage as many people as possible to send us written evidence before our deadline of 2 September."

A Home Office report submitted to the committee last month said the 2003 Act would remain "a fundamental pillar in both national and local regulatory frameworks". It noted that the legislation's key principles and objectives had endured, "as its application in practice has proved capable of evolving and adapting to balance divergent interests".

The Home Office also argued that, while there had been in excess of 100 cases which cited the 2003 Act, other than a very small number related to section 53C, these had not called into question the drafting of the legislation or raised issues of public concern.

A copy of the "Call for Evidence" is attached marked Appendix 1. The Home Office report can be accessed on the URL:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/530664/Cm_9278_-_Post-Legislative_Scrutiny_-_Licensing_Act_2003.pdf

Interested parties have been invited to submit evidence to the committee by 2 September 2016. The committee is scheduled to report by 23 March 2017.

Implications on related Council policies

None at this stage.

Legal implications

Legal comments are contained within this report.

Financial Implications

None at this stage.

Background Papers / Further Reading Material

NIL.

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SELECT COMMITTEE ON THE LICENSING ACT 2003

The Select Committee on the Licensing Act 2003 was set up on 25 May 2016 with the task of conducting post-legislative scrutiny of that Act. The Committee will be looking at the provisions of the Act, in its original form and with its subsequent amendments, at its implementation, and at related developments. The Committee has to report by 31 March 2017.

This is a public call for written evidence to be submitted to the Committee. The deadline is 2 September 2016.

It is helpful if opinions are supported by factual and statistical evidence where appropriate.

The Committee would welcome evidence from anyone with an interest in the operation of the Licensing Act 2003. Information on how to submit evidence is set out below. If you have any questions or require adjustments to enable you to respond please contact the Committee team: details also below.

The Licensing Act 2003 was intended to provide a means of balancing the broad range of interests engaged by licensing decisions – those of the entertainment and alcohol industries, small and large businesses, local residents and communities, policing, public health, and the protection of children from harm. Decision making under the Act was expected to balance these interests for the public benefit, rather than identify a ‘winning’ or ‘losing’ side. The Government said:

“Our approach is to provide greater freedom and flexibility for the hospitality and leisure industry. This will allow it to offer consumers greater freedom of choice. But these broader freedoms are carefully and necessarily balanced by tougher powers for the police, the courts and the licensing authority to deal in an uncompromising way with anyone trying to exploit these greater freedoms against the interest of the public in general.”

The Committee would welcome general views on whether the Act has achieved these objects. It would in particular welcome views on the following issues. **You need not address all these questions.**

Licensing objectives

1. Are the existing four licensing objectives the right ones for licensing authorities to promote? Should the protection of health and wellbeing be an additional objective?
2. Should the policies of licensing authorities do more to facilitate the enjoyment by the public of all licensable activities? Should access to and enjoyment of licensable activities by the public, including community activities, be an additional licensing objective? Should there be any other additional objectives?

The balance between rights and responsibilities

3. Has the Live Music Act 2012 done enough to relax the provisions of the Licensing Act 2003 where they imposed unnecessarily strict requirements? Are the introductions of late night levies and Early Morning Restriction Orders effective, and if not, what alternatives are there? Does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?
4. Do all the responsible authorities (such as Planning, and Health & Safety), who all have other regulatory powers, engage effectively in the licensing regime, and if not, what could be done? Do other stakeholders, including local communities, engage effectively in the licensing regime, and if not, what could be done?

Licensing and local strategy

5. Licensing is only one part of the strategy that local government has to shape its communities. The Government states that the Act “is being used effectively in conjunction with other interventions as part of a coherent national and local strategy.” Do you agree?
6. Should licensing policy and planning policy be integrated more closely to shape local areas and address the proliferation of licensed premises? How could it be done?

Crime, disorder and public safety

7. Are the subsequent amendments made by policing legislation achieving their objects? Do they give the police the powers they need to prevent crime and disorder and promote the licensing objectives generally? Are police adequately trained to use their powers effectively and appropriately?
8. Should sales of alcohol airside at international airports continue to be exempt from the application of the Act? Should sales on other forms of transport continue to be exempt?

Licensing procedure

9. The Act was intended to simplify licensing procedure; instead it has become increasingly complex. What could be done to simplify the procedure?

10. What could be done to improve the appeal procedure, including listing and costs? Should appeal decisions be reported to promote consistency? Is there a case for a further appeal to the Crown Court? Is there a role for formal mediation in the appeal process?

Sale of alcohol for consumption at home (the off-trade)

11. Given the increase in off-trade sales, including online sales, is there a case for reform of the licensing regime applying to the off-trade? How effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services? Should the law be amended to allow licensing authorities more specific control over off-trade sales of “super-strength” alcohol?

Pricing

12. Should alcohol pricing and taxation be used as a form of control, and if so, how? Should the Government introduce minimum unit pricing in England? Does the evidence that MUP would be effective need to be “conclusive” before MUP could be introduced, or can the effect of MUP be gauged only after its introduction?¹

Fees and costs associated with the Licensing Act 2003

13. Do licence fees need to be set at national level? Should London, and the other major cities to which the Government proposes to devolve greater powers, have the power to set their own licence fees?

International comparisons

14. Is there a correlation between the strictness of the regulatory regime in other countries and the level of alcohol abuse? Are there aspects of the licensing laws of other countries, and other UK jurisdictions, that might usefully be considered for England and Wales?

¹ The *sub judice* rule, referred to on the following page, means that witnesses should not comment on the latest stages of *Scotch Whisky Association and others v The Lord Advocate and the Advocate General for Scotland*, currently before the Inner House of the Court of Session. Comment on earlier stages of the proceedings, up to and including the judgment of the Court of Justice of the European Union, is permissible.

Written evidence should be submitted online using the written submission form available at <http://www.parliament.uk/licensing-act-committee-written-submission-form>

If you do not have access to a computer you may submit a paper copy to:

Clerk to the Select Committee on the Licensing Act 2003
Committee Office, House of Lords, London SW1A 0PW
fax 020 7219 4931.

The deadline for written evidence is 2 September 2016.

Short, concise submissions, of no more than six pages, are preferred. A longer submission should include a one-page summary. Paragraphs should be numbered. Submissions should be dated, with a note of the author's name, and of whether the author is acting on an individual or corporate basis. All submissions made through the written submission form will be acknowledged automatically by email.

Personal contact details supplied to the Committee will be removed from submissions before publication but will be retained by the Committee staff for specific purposes relating to the Committee's work, such as seeking additional information.

Submissions become the property of the Committee which will decide whether to accept them as evidence. Evidence may be published by the Committee at any stage. It will normally appear on the Committee's website and will be deposited in the Parliamentary Archives. Once you have received acknowledgement that your submission has been accepted as evidence, you may publicise or publish it yourself, but in doing so you must indicate that it was prepared for the Committee. If you publish your evidence separately, you should be aware that you will be legally responsible for its content.

You should be careful not to comment on individual cases currently before a court of law, or matters in respect of which court proceedings are imminent. If you anticipate such issues arising, you should discuss with the Clerk of the Committee how this might affect your submission.

Certain individuals and organisations may be invited to appear in person before the Committee to give oral evidence. Oral evidence is usually given in public at Westminster and broadcast in audio and online. Persons invited to give oral evidence will be notified separately of the procedure to be followed and the topics likely to be discussed.

Substantive communications to the Committee about the inquiry should be addressed through the Clerk, whether or not they are intended to constitute formal evidence to the Committee.

This is a public call for evidence. Please bring it to the attention of other groups and individuals who may not have received a copy direct.

You can follow the progress of the inquiry at www.parliament.uk/licensing-act-committee

30 June 2016

Agenda Item 8

LICENSING COMMITTEE - FORWARD PLANNER 2016/17

Committee	Licensing Committee
Officer Contact	Mark Braddock - Democratic Services
Ward(s) affected	N/A

RECOMMENDATION:

That the Committee note the Forward Planner and suggest any alterations or additional topics or business items.

13 July 2016 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings	
	Discussion: Member discussion to develop proposals for HMRC on Alcohol Wholesaler Registration Scheme.			Report deadline: 30 June 2016 Agenda Published: 5 July 2016
	Policies <ul style="list-style-type: none"> Legislative Reform (Exempt Lotteries) Order 2016 - Update 	SW		
	Informatives: <ul style="list-style-type: none"> Legislative Update 	BS		
	Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB		

19 October 2016 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings	
	Presentation: TBC			Report deadline: 6 October 2016 Agenda Published: 11 October 2016
	Policies <ul style="list-style-type: none"> Hearing Protocol for Street Trading (post consultation) Update from Public Health, following actions from the January 2016 meeting. 	BS SH		
	Informatives: <ul style="list-style-type: none"> Legislative Update 	BS		
Business Review: <ul style="list-style-type: none"> Forward Planner Sub-Committee Minutes 	MB			

10 January 2017 10am Committee Room 6	Proposed Agenda / Reports	Lead	Timings
	Presentation: TBC		Report deadline: 22 December 2016 Agenda Published: 2 January 2017
	Policies <ul style="list-style-type: none"> • TBC 		
	Informatives: <ul style="list-style-type: none"> • Legislative Update • Licensing Activity Update 	BS SW	
	Business Review: <ul style="list-style-type: none"> • Forward Planner • Sub-Committee Minutes 		

Taken off the Planner

'Reducing the Strength' update - 14 April 2016 meeting
 Building up the evidence base for sub-committee decisions - to incorporate into public health items

Annual Update (January meeting)

Licensing Activity Update

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

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of the Local Government (Access to Information) Act 1985 as amended.

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