



HILLINGDON
LONDON



Licensing Committee

Date: TUESDAY, 9 JANUARY
2018

Time: 10.00 AM

Venue: COMMITTEE ROOM 5 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Councillors on the Committee

Councillor Dominic Gilham (Chairman)
Councillor David Yarrow (Vice-Chairman)
Councillor Lynne Allen
Councillor Teji Barnes
Councillor Roy Chamdal
Councillor Jazz Dhillon
Councillor Allan Kauffman
Councillor Janet Gardner
Councillor Patricia Jackson
Councillor John Morse

Published: Thursday 28 December 2017

Contact: Mark Braddock

Tel: 01895 250470

Email: democratic@hillingdon.gov.uk

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Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
3E/05, Civic Centre, High Street, Uxbridge, UB8 1UW
www.hillingdon.gov.uk

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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 meeting held on 17 October 2017 1 - 6
- 4 To confirm the items of business in Part 1 will be considered in public and items marked Part 2, in private

Part 1 (Public)

- 5 Licensing Act 2003 - Response to the House of Lords Select Committee Review 7 - 56
- 6 Gambling Act 2005 - Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures 57 - 124
- 7 Tackling Street Drinking and related Anti-Social Behaviour (verbal update) -
- 8 Legislative and Industry Update 125 - 130
- 9 Forward Planner 131 - 132

Part 2 (Private - Not for Publication)

10 Ratification of Sub-Committee Minutes

133 - 142

11 Any other Items the Chairman agrees are Relevant or Urgent

This report is not made public and included in Part 2 of the meeting, because it contains 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. That the public interest in withholding the information outweighs the public interest in disclosing it (exempt information under paragraphs 2 & 7 of Part 1 of Schedule 12A to the Local Government [Access to Information] Act 1985 as amended).

Minutes

Licensing Committee
Tuesday, 17 October 2017
Meeting held at Committee Room 3 - Civic Centre,
High Street, Uxbridge UB8 1UW



Members Present:

Dominic Gilham (Chairman)
David Yarrow (Vice-Chairman)
Roy Chamdal
Teji Barnes
Patricia Jackson
Allan Kauffman
Lynne Allen
Janet Gardner
John Morse

Also Present:

Ian Meens (Regulatory Services); PC Emly Mitchell & PC Dave Butler (Metropolitan Police); Glen Egan (Legal Services); Mark Braddock (Democratic Services)

4. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Jazz Dhillon.

5. DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

No interests were declared by Members present.

6. TO AGREE THE MINUTES OF THE MEETING HELD ON 13 APRIL 2017

The minutes of the meeting held on 13 April 2017 were agreed as a correct record, subject to adding a record to express the Committee's gratitude to Acting Sgt. Ian Wares who had retired.

7. TO AGREE THE MINUTES OF THE MEETING HELD ON 11 MAY 2017

The minutes of the meeting held on 11 May 2017 were agreed as a correct record.

8. TO CONFIRM THE ITEMS OF BUSINESS IN PART 1 WILL BE CONSIDERED IN PUBLIC AND ANY ITEMS PART 2, IN PRIVATE

It was confirmed all business would be considered in public.

9. SELF-EXCLUSIONS FROM GAMING ESTABLISHMENTS AND ONLINE GAMBLING

The Committee received a briefing on "Self-Exclusion" which was a process operating within gaming establishments throughout the United Kingdom to assist those with gambling addiction problems.

It was noted that there were different means by which a person who voluntarily wished to be excluded from gambling could achieve this, from individual betting shops through to specific area exclusions with multiple establishments, the latter being a scheme called MOSES.

Members discussed the increasing prevalence of online gambling and noted that a new scheme called GAMSTOP would be operational by the end of 2017 to provide self-exclusion opportunities online.

The Committee were aware that such schemes were not full proof and individuals may require other support to help with any addiction.

RESOLVED:

That the Committee:

- 1. Note the information.**
- 2. Request an update on the implementation of GAMSTOP to its meeting in April 2018.**

10. STREET TRADING HEARING PROTOCOL

Members agreed to a slightly updated protocol for parties to use to assist them with the procedures for licensing sub-committee hearings relating to street trading applications.

RESOLVED:

That the revised Street Trading Hearing Protocol be approved.

11. DECISIONS TO REVOKE OR SUSPEND PERSONAL LICENSES FOLLOWING CONVICTIONS

The Committee considered how the Licensing Authority should determine the procedure for disposing of applications to suspend/revoke personal licences.

It was noted that if the Licensing Authority became aware of an individual holding a personal licence that had been convicted of a "relevant offence" or a "foreign offence" a notice must be sent to the holder of a Personal Licence inviting them to

make representations regarding their conviction within 28 days, where after this period, the Licensing Authority must determine whether or not to suspend or revoke the licence.

The Committee reviewed the legal requirements along with the list of offences that would be captured under legislation and agreed to delegate the decision-making powers for these applications to a Licensing Sub-Committee. The hearing procedure and timescales that applied to contested Personal Licence applications would apply to applications to revoke or suspend Personal Licences. Members welcomed the new powers which would ensure the safety and security of residents and patrons of licensed establishments.

RESOLVED:

That the Committee:

- 1. Under S7(1) of the Licensing Act 2003 delegate the decision-making powers for applications to suspend/revoke Personal Licences to the Licensing Sub-Committee and agree that the hearing procedure and timescales that apply to contested Personal Licence Applications would apply to Applications to revoke/suspend Personal Licences.**
- 2. Instruct Democratic Services, acting in conjunction with Legal Services and the Regulatory Services Team to implement its decision by making consequential amendments to the relevant Hearing Protocols and note the Council's Schemes of Delegation will be updated accordingly to reflect that these are a Member-level decision.**
- 3. Request that officers incorporate the list of relevant offences into the formal documentation issued for all new applications with immediate effect and that officers engage directly with both the Police and local Magistrates courts to ensure they are fully briefed on the implications.**

12. REDUCING THE STRENGTH UPDATE

Members received an update on partnership efforts with the Police on licensing enforcement matters, in particular within Hayes Town.

It was noted that the Council and Police's main attention had focussed around the behaviour of street drinkers and related anti-social behaviour, including the removal of "make do" camps along the Hayes canal tow path. Additionally, joint operations with Trading Standards on off-licenses in May had uncovered a number of alleged non-compliance practices which were currently under review by the Council.

The Committee felt that efforts to solely try and reduce the supply of high strength alcohol were in fact a much broader issue and agreed that the topic be reflected in a wider capacity going forward.

RESOLVED:

That the Committee:

1. **Noted activity in relation to reducing the strength and;**
2. **Agreed to broaden the topic when considered further by the Committee as 'Tackling Street Drinking and ASB'.**

13. LEGISLATIVE UPDATE

The Committee received an update on recent case law regarding a Stratford-Upon-Avon Licensing Sub-Committee which had revoked a premises licence where the decision was subsequently appealed. It was noted that at the court hearing, it found that there was no doubt that local residents had been severely and adversely affected by noise nuisance coming from the premises. Additionally, with crowds of people associated with the premises on the pavement and highway causing unacceptable nuisance, it was concluded that there was little prospect of the licence holder running the premises in a manner which upheld the Licensing Objectives. Consequently, it upheld the decision of the Licensing Authority.

Members noted the latest national statistics for 2016/17 released by the Gambling Commission which showed, amongst other matters, a 43% reduction from March 2013 in the number of new permits and notifications granted for gambling activity.

RESOLVED:

That the Licensing Committee note recent case law and the latest statistical release for licensed premises from the Gambling Commission.

14. FORWARD PLANNER 2017/18 MY

The Committee looked ahead at planned business and made decisions to include additional items at specific meetings.

RESOLVED:

That the Committee:

1. **Note the Forward Planner;**
2. **Agree an update on Tackling Street Drinking and related ASB at it's January 2018 meeting and;**
3. **Agree an update on the implementation of GAMSTOP at it's April 2018 meeting.**

15. RATIFICATION OF SUB-COMMITTEE MINUTES

Relevant Members of the Committee agreed the minutes of a previous Licensing Sub-Committee hearing as a correct record and the Committee then ratified the minutes of the meeting.

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-Committee, approve the minutes as a correct record:

a) 23 May 2017 (Part 1)

b) 6 July 2017 (Part 1)

c) 7 July 2017 (Part 1)

16. ANY OTHER ITEMS THE CHAIRMAN AGREES ARE RELEVANT OR URGENT

No further items were considered.

The meeting closed at 11.18am.

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LICENSING ACT 2003 – RESPONSE TO THE HOUSE OF LORDS SELECT COMMITTEE REVIEW

Committee	Licensing Committee
Officer Contact	Stephanie Waterford 01895 27(7232)
Papers with report	Appendix 1 - Government Response to the Report from the House of Lords Select Committee
Ward(s) affected	All

HEADLINE

Following the review into the Licensing Act 2003 by the House of Lords Select Committee, the Government have published a response. Notable sections of the response are summarised below.

RECOMMENDATION

That the Committee note the information.

INFORMATION

The House of Lords Select Committee were appointed to carry out a review into the effectiveness of the Licensing Act 2003 in May 2016.

The Committee received written submissions and heard oral evidence from a large selection of industry and regulatory contributors.

Their findings were published in April 2017 which included 73 recommendations made to the Government.

The Government has considered the report and recommendations and published its response. The complete document is attached as **APPENDIX 1**.

Notable recommendations from the report and their responses are summarised below.

Page 12 - Recommendations 5, 6 & 7

The Select Committee recommended reform of the way Licensing Sub-Committees operate and suggest that the Licensing Act 2003 functions transfer to Planning Committees with pilots being trialled as soon as possible.

Response -

The Government responded by stating that there were areas of inconsistency between licensing authorities and it was acknowledged that there were areas of good practice within

planning regimes which could be applied to licensing. The Government's response was that this was not a recommendation which would be taken any further at this stage.

Page 13 - Recommendation 8

The Select Committee were concerned by the number of licensing appeals which are settled by Licensing Authorities prior to appearing at Court. The Committee recommended that Licensing Authorities be required to publish their reasons for settling appeals, particularly when effectively reversing an earlier decision which residents and others in local communities expected to be implemented.

Response -

The Government agreed that transparency of local decision-making must be paramount and agreed that any licensing decisions should be published with full reasons.

Further, the Government have undertaken to amend the Section 182 Guidance to expand this.

Pages 14 - 15 - Recommendations 10, 11 & 12

Para. 213 highlights a recommendation that the Section 182 Guidance is amended to enforce the standards of conduct of Licensing Committee Members. Para's 218 and 220 deal with the minimum level of training required for Licensing Committee Members.

Response -

The LGA will be addressing the issue of standards and conduct in their forthcoming Licensing Act 2003 handbook and the Government does not feel it necessary to address this in the Section 182 Guidance.

The Government will consider the training needs for Councillors suggested by the Committee.

Page 15 - Recommendation 13

The Select Committee recommends that full reasons are published where a Licensing Sub-Committee believes a hearing should be held where all parties have agreed that a hearing is un-necessary.

Response -

The Government has acknowledged that it is reasonable for the Sub-Committee to provide reasons and has agreed to address this in the revised Section 182 Guidance and the LGA handbook which will be published in March 2018.

Page 17 - Recommendation 17

Concerns were raised regarding the delays between licensing decisions being made and the listing of licensing appeals being made at Court. The Committee were particularly concerned with summary review cases where a premises could be closed down for many months having a devastating effect on the livelihood of licence holders and the staff employed by them.

Response -

The matter has been discussed with HM Courts and Tribunals Service.

Pages 22 - 24 - Recommendations 26 - 30

These recommendations deal with high strength alcohol and responsible retailing measures. The Select Committee acknowledged the various schemes and operations centred around restricting sales of super strength alcohol and suggest national measures to assist this.

Response

The Government does not intend to introduce any legislation or amend the Section 182 Guidance at this stage, but acknowledges that there is scope to continue working with partners to improve public health generally.

Page 25 - Recommendation 32

A recommendation has been made to implement a system of notifying local Councillors and residents of Temporary Event Notices served, particularly for premises where previous complaints have been made.

Response -

The Government proposes to address this issue in the revised Section 182 Guidance.

Page 28 - Recommendation 37

The Select Committee recommends that Community and Ancillary Sellers Notices are not brought into force and the legislation repealed. Concerns were raised in the report that further deregulation could open up the licensing system to abuse.

Response -

The Government is making further considerations to these notices and will report in due course.

Page 30 - Recommendations 42 & 43

The Committee is supportive of the Government's plans to place Cumulative Impact Policies on a statutory footing.

Response -

The changes were introduced under the Police & Crime Act 2017 and the Government will also make the necessary changes in the revised Section 182 Guidance.

Page 40 - Recommendation 61

The Select Committee recommends that existing statutory powers allowing local authorities to locally set licence fees, to be brought into force.

Response -

The Government intends to make no changes to the existing licensing fee structure.

Page 41 - Recommendation 66

The Select Committee recommends that the Government enforces Sections 128 and 132A of the Licensing Act 2003 by introducing a national database of personal licence holders. This would enable local authorities to track personal licence holders who have received convictions for relevant offences. It would also ensure that councils can access information on personal licence holders who have had their licences revoked or suspended.

Response -

The Government is not proposing to create a standalone personal licence database but is considering adding personal licence holders to a new database of private hire and taxi drivers which is accessible to most councils across the country.

Page 43 - 44 - Recommendations 70 & 71

The Committee recommends that the Government applies the Licensing Act 2003 fully within the currently exempt airside areas of airports and ports.

Response -

The Government will be considering this recommendation as part of the development of the UK Aviation Strategy.

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

The Full Report of the House of Lords Select Committee - 184 pages

<https://publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>



THE GOVERNMENT RESPONSE TO THE REPORT FROM THE HOUSE OF LORDS
SELECT COMMITTEE ON THE LICENSING ACT 2003
SESSION 2016-17 HL PAPER 146:

The Licensing Act 2003: post-legislative scrutiny

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

November 2017

Cm 9471



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Any enquiries regarding this publication should be sent to us at:

Drugs and Alcohol Unit
Fry Building
Home Office
2 Marsham Street
London SW1P 4DF

Alcoholstrategy@homeoffice.gsi.gov.uk

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Response to the Select Committee on the Post Legislative
Scrutiny of the Licensing Act 2003

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Preamble

1. The Licensing Act 2003 (the Act) aimed to liberalise the licensing system, reduce the problems of excessive drinking and disorder and bring about a major shift in the way we consume alcohol with less emphasis on heavy drinking and drunkenness as ends in themselves. In the 11 years since the Act came into force, there have been some positive trends in drinking habits and culture but many of the challenges associated with excessive alcohol consumption remain.
2. Alcohol consumption (measured by the average number of litres of alcohol consumed per head of population) has generally shown a downward trend from a peak in the mid 2000s, following a longer term increase (UK consumption per head doubled between 1950 and 2004).¹ The most pronounced fall in heavy drinking has been in 16-24 and 25-44 age groups, whereas trends in the older age groups (45-64 and 65 and over) have remained more stable, even rising slightly since 2012.² Around one in five adults (21%) in 2016 said that they were teetotal (they do not drink alcohol at all). This has slowly increased from 19% in 2005 due to a rise among those aged 16 to 44. In 2016 over 1 in 4 (27%) young adults (aged 16 to 24) were teetotal, a 41% increase since 2005 (19%).³
3. There is a strong link between alcohol and violent crime. Crime Survey for England and Wales (CSEW) data from 2015/16 shows that in slightly under half (40%, 491,000 offences) of all violent incidents the victim believed the perpetrator to be under the influence of alcohol. Both the volume of incidents and the proportion of violent incidents that were 'alcohol-related' have fallen relative to 2005/06. Alcohol can also be a contributory factor in incidents of minor crime and anti-social behaviour. The 2015/16 CSEW shows that around one in eleven (9.2%) adults reported that they personally experienced or witnessed drink related anti-social behaviour.⁴
4. The trend for some alcohol-related health indicators has moved in the opposite direction: alcohol-related hospital admissions and the incidences of certain alcohol-related health conditions have all increased and, whilst alcohol-related death rates have not changed in recent years, the rate in 2015 is still higher than that observed in 1994.⁵ A growing body of evidence also shows that excessive alcohol consumption affects different socio-economic groups differently. For example, half of all annual hospital admissions occur in the lowest three socioeconomic deciles.⁶ While the Committee's report is emphatic in judging that the promotion of health and well-being is not appropriate as a

¹ Public Health England (2015) Substance misuse among young people: data for 2014-15

² Office for National Statistics (2017) Adult Drinking Habits in Great Britain, 2005 to 2016

³ Ibid

⁴ Office for National Statistics (2016) Crime in England and Wales, Year Ending March 2016

⁵ Office for National Statistics, *Alcohol-related deaths in the UK: registered in 2015*.

⁶ <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

licensing objective (a recommendation with which we agree), it remains an area where further progress can – and should - be made.

5. Alongside these ongoing challenges we are also seeing a continuing shift in the way we consume alcohol. People are visiting pubs less frequently, and the alcohol industry reports changes not just in who visits pubs, but also in what they buy when they do so, with more pubs offering food as part of their main approach to attracting customers. More than two thirds of all alcohol sold is through the off-trade⁷ and, since 2009, there has been a 17% expansion in the number of premises licensed for off-sales only compared with a 9% increase in the number of licenses for on-trade sales only.
6. In addition, more alcohol is being bought online. Information as to the quantity of alcohol purchased online is difficult to come by but one survey suggests that around one-fifth of all alcohol purchased is bought online⁸.
7. The implications of these changes suggest that we are drinking more of our alcohol at home, a change that brings with it a fresh set of challenges for Government and partners to address. For example,
 - A third of domestic violence incidents in 2015/16 were perceived by the victims as alcohol related;⁹
 - Over the last three years, 25,000 contacts to the NSPCC helpline raised concerns of substance abuse near children (both alcohol and drugs), a 16% increase since 2013/14, with 8500 people contacting the helpline last year alone;¹⁰
 - A UK-based study identified that an increase of 11 off-sales outlets per km² was associated with an 8% higher incidence of alcohol-related hospitalisation and a 19% higher incidence of alcohol-related mortality.¹¹
8. The shift towards home consumption presents a different set of challenges, not just in terms of how public services respond to the crime and health harms that occur in and around the home, but also in relation to the role and ability of the Act to promote behaviour change among those individuals who cause the most significant harms.
9. In this context, the report by the House of Lords Select Committee on the Licensing Act 2003 is an important contribution towards where and how the Act can be improved. Tackling alcohol-related harm and encouraging responsible drinking cannot be done by regulation alone. Alcohol is a legal substance available to people to enjoy at home or out and about as they choose. The alcohol industry also makes a significant contribution to the UK

⁷ <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

⁸ <https://www.thedrinksbusiness.com/2017/04/uk-leads-europe-for-online-booze-sales>

⁹ Office for National Statistics (2017) Crime in England and Wales, year ending March 2016

¹⁰ NSPCC (2017) <https://www.nspcc.org.uk/what-we-do/news-opinion/children-of-alcoholics-week/>

¹¹ Richardson *et al* (2015) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4415114/>

economy and employment market and it is vital to this important industry that the Government strikes the right balance between promoting trade and investment on the one hand and ensuring an effective regulatory framework that minimises the risk of harm on the other.

Government action to reduce alcohol-related harms

Modern Crime Prevention Strategy

10. As part of Government's continuing commitment to fight crime, stand up for victims, and introduce more effective crime prevention measures, the Government published the Modern Crime Prevention Strategy in March 2016. The strategy targets the key drivers of crime, and sets out an updated approach to crime prevention. Alcohol is one of the six drivers of crime. The focus lies on preventing alcohol-related crime to make the night-time economy safe and enable people to enjoy a night out without the fear of becoming a victim of crime.
11. The strategy sets out a three-pronged approach to preventing alcohol-related crime and disorder:
 - Improving local intelligence so that decisions taken about the sale of alcohol and the management of the evening and night time economy are based on reliable data and the latest evidence;
 - Establishing effective local partnerships where all those involved in the operation and management of the evening and night time economy work together, so that people can enjoy a safe night out without fear of becoming a victim of alcohol-related crime or disorder, whilst also enabling local economies to grow; and,
 - Equipping the police and local authorities with the right powers so they can prevent problems occurring as well as take swift and decisive action after they have occurred.
12. Many of the commitments concerning alcohol have now been delivered with ongoing work focused on making improvements to data sharing between police, local authorities and accident and emergency departments.

Local Alcohol Action Areas

13. In January, the Minister for Crime, Safeguarding and Vulnerability launched the second phase of the Government's Local Alcohol Action Areas programme (LAAA2). The LAAA2 programme is designed to offer frontline support and expertise to local areas from dedicated Government support managers and other experts.
14. In the first phase of the programme, we worked with 20 areas across England and Wales over a 13 month period. The programme gave local agencies a strong role in diagnosing the problems they faced and making plans to tackle them. Participating areas told us that their involvement in the programme

helped to raise the profile of alcohol-related initiatives. They also benefited from access to expert practitioners and from networking with other areas tackling the same problems.

15. In the second phase we are working with 32 areas over a two-year period. Those areas will be supported in implementing their plans to reduce alcohol-related crime and health harms and to generate economic growth by creating a vibrant and diverse night time economy. Areas are focusing on a number of core challenges including safe spaces, sales to drunks, improving sharing and interpretation of health data, and diversification of the night time economy. The two year programme provides opportunity for innovation and to share best practice across all areas in England and Wales.

HM Treasury Consultation

16. Higher strength white ciders have been highlighted, by some, as a product that causes disproportionate levels of harm. These drinks have an alcohol strength around 7.5% abv, and are reportedly typically purchased as a cheap form of relatively high strength alcohol. A three litre bottle of a 7.5% abv 'white' cider contains 22.5 units of alcohol which is over 1.5 times the number of units the UK Chief Medical Officers have recommended for weekly consumption for those wishing to keep the health risks from drinking alcohol to a low level.
17. Her Majesty's Treasury (HMT) launched a consultation in March to obtain views on:
 - introducing a new duty band for still cider just below 7.5% abv to target white ciders; and,
 - the impacts of introducing a new duty band for still wine and made-wine between 5.5% and 8.5% abv.

18. The Government will announce its next steps once all responses to the consultation have been considered.

UK Chief Medical Officer (CMO) guidelines

19. The Government believes people have a right to accurate information and clear advice about alcohol and its health risks and that it has a responsibility to ensure this information is provided in an open and clear way, so the public can make informed choices.
20. The UK Chief Medical Officers have issued low risk drinking guidelines¹² to provide the public with clear advice about alcohol and its health risks. These recommend that adults do not regularly drink more than 14 units per week. This is based on the most up to date scientific information to help people make informed decisions about their own drinking. Guidance has been issued to the industry to ensure the core elements of the guidelines are communicated to the public.

¹² <https://www.gov.uk/government/publications/alcohol-consumption-advice-on-low-risk-drinking>

Improving Lives

21. The evidence is clear that work and health are linked. Appropriate work is good for an individual's physical and mental health. Being out of work is associated with a range of poor health outcomes. Academics and organisations such as the World Health Organisation, the OECD, the Royal College of Psychiatrists and NICE all recognise that work influences health and health influences work. The workplace can either support health and wellbeing and the health system can actively support people into work in a virtuous circle or the workplace can be unsupportive and health and work systems can work against each other.
22. The impact of poor health on work is not inevitable for people at any age. For example, advances in technology can assist people to remain in work where they might previously have been unable to do so. Lifelong learning can also offer the opportunity for people to gain new skills to change roles if they develop a health condition or disability, or an existing one worsens. And while many conditions are not preventable, the evidence is clear that the way we live our lives can influence health outcomes. Currently, 6 out of 10 adults are overweight or obese, nearly 1 in 5 adults still smoke, and more than 10 million adults drink alcohol at levels that pose a risk to their health.
23. Public health interventions form a vital part of the health and work agenda to help reduce the prevalence of conditions that can lead to people leaving the labour market due to ill health.

Further action

24. The Committee's Report states that the Act requires a 'radical comprehensive overhaul', although it was also noted from some evidence sessions that 'where it works, it works really well'.
25. The Government does not intend to be hasty in instigating such an overhaul of the Act. However, there are a significant number of recommendations that the Government agrees will help improve the operation of the Act, for example clarifying points of practice for licensing committees by amending the statutory guidance and looking at the provision of good quality training to licensing committee members.
26. While the Government rejects some recommendations and conclusions, there are several recommendations which are a spur to further work, particularly in respect to how the system of licensing can be made to function more effectively and the lessons that can be learned from the planning system. The Government is committed to working with partners, including the Local Government Association, the Institute of Licensing, the licensed trade, and licensing solicitors and barristers, to ensure that the system operates as effectively as possible.

27. The Act cannot, however, be the means by which all alcohol-related harms are tackled, something which the House of Lords Select Committee itself recognises through its recommendation that a health and well-being licensing objective is not added to the current list of licensing objectives. For these types of harms, a more sophisticated, joined up approach from a range of public services is required. The Government will work with partners to identify the most effective means of responding to those alcohol-related harms that cannot be addressed through further change and amendment to the Act.
28. We thank the Committee for their work on this important piece of legislation. The Government has considered the recommendations and the Government's response is below.

Response to the Select Committee on the Post Legislative Scrutiny of the Licensing Act 2003:

Conclusion / Recommendation 1:

We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation, and further changes to licensing law and practice made by amendment of the section 182 Guidance.

(Paragraph 54)

Government response

The Government notes the Committee's concerns. It is important to ensure that the Act remains flexible and responsive to emerging trends and issues. The changes made both to the Act and to the guidance reflect concerns highlighted by partners and those responsible for implementing the legislation and have, in our view, served to make the legislative framework stronger and more effective.

Conclusion / Recommendation 2:

We regret that there will no longer be any opportunity for Parliament to scrutinise the guidance in draft, nor even to ensure that there has been adequate consultation during its preparation. (Paragraph 55)

Government response

The requirement to lay guidance issued under section 182 of the Act was removed via the Policing and Crime Act 2017 with effect from 6 April 2017.

The licensing framework is now well established and the Government therefore considered the requirement to lay revised guidance before Parliament to be unnecessary. Since the guidance was first published it has been revised twelve times and on no occasion has Parliament commented on the guidance. There are many other examples of statutory guidance where there is no parliamentary procedure attached and the Government is satisfied that it is no longer justified for this guidance. This change will mean that the guidance can be updated more quickly and easily than previously. The guidance retains its statutory status and will continue to be published on gov.uk.

The statutory guidance is provided to licensing authorities to assist them in carrying out their functions under the Act. The guidance is updated to reflect legislative changes; as these are factual changes it is not necessary to carry out a formal consultation. However, Government officials share draft guidance with partners to ensure the guidance will be understood by licensing authorities and others who use it. When the guidance is updated to reflect the recommendations

of the report that have been accepted by Government drafts of the guidance will continue to be shared with key partners for their comment.

Conclusion / Recommendation 3:

Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish Ministers have published their statutory assessment of the working of MUP, if that assessment demonstrates that the policy is successful, MUP should be introduced in England and Wales.

(Paragraph 86)

Government response

Minimum unit pricing remains under review. Subject to the outcome of the legal case between the Scottish Government and the Scotch Whisky Association and any subsequent decision of the Scottish Government to introduce a minimum unit price for alcohol, the Government will consider the evidence of its impact once it is available.

Conclusion / Recommendation 4:

We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption. (Paragraph 87)

Government response

In 2015, the Government commissioned Public Health England (PHE) to “review the evidence and provide advice on the public health impacts of alcohol and possible evidence-based solutions”. The review¹³ represents England’s most comprehensive examination of the evidence on the public health burden of alcohol and policy responses to reduce the health, social and economic harm. The review identifies that measures to address affordability and availability of alcohol are likely to have an impact on reducing harmful consumption.

The Government continues to consider a range of measures available to control excessive alcohol consumption through taxation and pricing. For example, Her Majesty’s Treasury has recently consulted on the introduction of a new duty band for still cider just below 7.5% abv (to target white ciders) and the impacts of introducing a new duty band for still wine and made-wine between 5.5% and 8.5% abv (to encourage the production and consumption of lower strength wines). The consultation closed in June.

The Government keeps all taxes under review at fiscal events, and we will consider this issue carefully as part of the Autumn Budget process.

¹³ <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

Conclusion / Recommendation 5:

We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe – we certainly hope – that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)

AND

Conclusion / Recommendation 6:

Sections 6-10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees. We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)

AND

Conclusion / Recommendation 7:

We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)

Government response

The Government recognises that the recommendations this Committee has made about the relationship between licensing and planning is the start of a debate. We acknowledge that others are interested in there being further consideration of whether, and how, licensing and planning could work better together and where there is good practice within planning that could be applied to licensing.

Local planning authorities have a duty to determine planning applications in line with their local plan, policies and other material considerations. However, local authorities in England are not explicitly required by statute to have a planning committee (although there are statutory requirements on the make-up of local authority planning committees in Wales); whereas licensing authorities are required to establish committees by the Act. It should be noted that in some areas a planning authority may not be coterminous with the licensing authority.

In some English local authority areas there are planning committees and licensing committees made up of the same committee members, or subsets of the same members. It is a matter for local authorities to determine the best arrangements for their area, taking into account the needs of their communities and to provide value for money to the taxpayer.

It is up to local authorities to determine how they organise committees to deliver their statutory functions and we do not intend to take the approach recommended by the Committee at this time. Section 7 (5) of the 2003 Act already allows that where a matter relates to a licensing function and to another function of the local authority (for example, planning), the matter may be referred to either committee. This allows for the licensing committee to discharge functions other than licensing matters, and vice-versa, for a planning committee to discharge a licensing function.

However, the Committee raises important points in its report on the effectiveness and consistency of implementation of licensing processes and decision making. We accept that improvements could be made in some local areas and that the synergies between planning and licensing should be part of an ongoing discussion about how we can support local improvements. Instead of transferring the functions of licensing committees to planning committees, we are focusing on improving training and providing stronger guidance on how licensing hearings should be conducted.

The basic structures of the planning and licensing system are similar and our focus will be on improving how the two regimes communicate and interact at local level. There is good practice in many local areas that we will disseminate and build on, for example whether there is additional support that local residents could be given to frame and present their concerns about a licensing application to the committee effectively. The local planning authority is already listed in the Act as a responsible authority and therefore has a statutory role in considering applications for the grant, variation or review of a premises licence.

Conclusion / Recommendation 8:

Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on. (Paragraph 173)

Government response

We agree that there should be transparency around the decisions made on licensing appeals, in particular for local residents who may have attended a hearing and expect the decision to be implemented.

Our view is that any decision by a local authority should be justified with clear reasons and, where a case is settled out of court, this is just as important as publicising the original outcome of the review hearing. There is no reason why a local authority should not publish the revised decision and reasons. Licensing authorities should give full consideration to the level of interest in a case when considering whether to reverse any decision which other parties to the original hearing may be relying on. Settling a matter out of court effectively removes any

further opportunity for those parties to be heard or to hear new evidence or concessions made by the appellant.

We do not consider it necessary to legislate to this effect. The section 182 guidance states that *“It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.”* We will amend the guidance to extend this principle to decisions made after a hearing.

Conclusion / Recommendation 9:

We recommend that appeals from licensing authorities should no longer go to magistrates’ courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees. This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible.

Government response

The Government notes the Committee’s comments on the appeals process. We do not intend to change the system so that licensing appeals no longer go to magistrates’ courts but lie to the planning inspectorate.

However, we accept the Committee’s findings that the licensing appeals system could be improved and we are aware that some local areas find the system unwieldy and prone to delay. We will explore with partners whether there is good practice within the existing regime and from similar regimes that may offer some ideas for consideration.

Conclusion / Recommendation 10:

The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standard of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases, or at all. (Paragraph 213)

Government response

The responsibilities of the chair of a local licensing committee are vital to ensuring effective local practice and we support this recommendation in principle.

In our view, the Local Government Association (LGA) handbook for licensing committees is the most appropriate vehicle for highlighting these responsibilities, and we will work with the LGA to address the points the Committee has raised in their forthcoming handbook.

Conclusion / Recommendation 11:

We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders, the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training.

AND

Conclusion / Recommendation 12:

The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of the licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)

Government response

The Government recognises the importance of councillors undergoing training before being allowed to sit as a member of a sub-committee. Good quality training is critical to ensuring that councillors are able to effectively carry out their licensing role. Licensing authorities determine what training is required for their committee members and this can be delivered in a variety of ways, including through courses delivered by the Institute of Licensing (IoL).

We will consider the training needs for councillors with the partners suggested by the Committee.

Conclusion / Recommendation 13:

We recommend that where there are no longer any matters of dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing. (Paragraph 222)

Government response

The Government accepts that it is reasonable for a licensing sub-committee to provide reasons why a hearing should nonetheless be held even where there are no longer any matters of dispute between the parties. This will be included in the section 182 guidance and in the LGA licensing handbook when it is produced. The guidance will also be amended to clarify the powers of delegation to dispense with a hearing.

Conclusion / Recommendation 14:

The Hearings Regulations must be amended to state that the quorum of a sub-committee is three. (Paragraph 229)

Government response

Section 9(1) of the Licensing Act already requires sub-committees to consist of three members of the committee, no more, no fewer. The Act provides the power to change that number by way of secondary legislation; however neither the Committee nor the Government has identified any need to do so. The Government's view, therefore, is that no amendment to the Hearings Regulations is needed as that is already the statutory requirement and it should not be duplicated in secondary legislation.

The Government will instead make this clear in the statutory guidance to ensure that the legal requirement is complied with in future.

Conclusion / Recommendation 15:

Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked.
(Paragraph 230)

Government response

The process for hearings must meet the requirements of regulations under the Act. Procedural matters which are not covered in the legislation are for the licensing authority to determine, and the purpose of regulation 21 is to make this explicit. This allows licensing authorities to design their process to suit local structures, and it is important that this flexibility is provided for as a means of minimising unnecessary burdens on local authorities. The regulations stipulate the process to be followed where there is a need for consistency and transparency across all licensing authorities.

Regulation 23 states that a hearing shall take the form of a discussion, and cross-examination shall not be permitted unless the authority considers it is required for it to consider the case. This is an important principle for licensing hearings, since the role of the committee is to look at the impact on the licensing objectives, and judge what is appropriate.

It is not the committee's role to judge guilt or innocence, for example when a licence is reviewed following concerns about incidents of crime and disorder. The committee takes an inquisitorial approach and therefore cross-examination is not usually needed. Often witnesses at a licensing hearing do not have legal representation (including licensees, responsible authorities and members of the public), and allowing cross-examination would result in licensing hearings taking significantly longer than they do currently and make the process overly adversarial.

We do not intend to revoke these regulations.

Conclusion / Recommendation 16:

The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)

Government response

As outlined above, it is important to preserve the flexibility for licensing authorities to determine their own procedures for holding hearings. However, we will consult partners about what changes should be made, if any, to the section 182 guidance to improve the consistency of process where this is needed, for example that parties should be allowed sufficient time to make their representations.

Conclusion / Recommendation 17:

We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)

Government response

The Government cannot implement this recommendation because listing is a judicial responsibility and function. The purpose of a listing decision is to ensure that all cases are brought to a hearing in accordance with the interests of justice, and the determination of what is in the interests of justice, and the issue of which cases should be given priority for listing is for the judiciary. For example, it would be for the judiciary to decide if a trial involving a child witness, a cash seizure case where somebody desperately needs to get their money back, or a licensing appeal should be given greater priority in a magistrates' court.

The fact that someone's livelihood is at stake would clearly be an important factor, but it will be one of a number to be weighed by the judiciary in giving priority to the listing of cases.

We have discussed this recommendation with HM Courts and Tribunals Service who will bring the select committee's recommendation to the attention of the judiciary.

Conclusion / Recommendation 18:

We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority. (Paragraph 242)

Government response

The legislation requires an applicant for a premises licence to publish a notice:

- i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;
- ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

The previous Government consulted on this deregulatory measure in 2012 as part of the Alcohol Strategy consultation. A small majority of responses were in favour of the proposal. The Government response to the consultation stated that a number of responses stressed that newspapers were an important means through which local communities found out about licensing applications, and the Government considered that the removal of the requirement to advertise details in newspapers would be a step backwards from the efforts the Government has made to empower local people and local areas in tackling local alcohol-related problems. The Government has no plans to revisit the requirement for an applicant to publish a notice in a local newspaper.

Conclusion / Recommendation 19:

Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)

Government response

It is important that licensing notices are displayed prominently in order to ensure that as many people within the community are kept informed of licensing applications.

The section 182 guidance already states the requirements on applicants to publish a notice in a local newspaper and display a summary outside the premises.

However, we will strengthen advice on this issue in the guidance. The LGA has also agreed to highlight this requirement to Licensing officers to ensure best practice is followed.

Conclusion / Recommendation 20:

Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring a relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa. (Paragraph 246)

Government response

Planning and licensing are separate regimes that serve separate purposes. There may be overlapping considerations that are relevant both from a licensing and a planning perspective. Effective coordination is important to ensure that planning and licensing work together to produce better decision-making that supports the needs and aspirations of local communities. The Government encourages local authorities to take steps to achieve coordination where appropriate and to avoid contradictory decisions as far as possible.

The section 182 guidance recommends that the licensing authority secures proper integration of its licensing policy with planning. Local authority members on committees carrying out these functions must take all relevant considerations into account when reaching a decision – and some considerations may be relevant from both a planning and a licensing perspective. The National Planning Policy Framework (paragraph 191) encourages the parallel processing of consents.

We are aware of examples of local good practice where licensing and planning systems work well together. The local planning authority is a responsible authority under the Act and therefore has a statutory role in considering applications for the grant, variation or review of a premises licence. However, we recognise that coordination between systems is inconsistent and could be improved in many areas.

We will revisit how this issue is presented in the section 182 guidance with a view to strengthening the call for consistency, wherever possible, in the assessment and approach of those matters that are considered by both regimes to support local authorities to make effective decisions.

We will also encourage the LGA and the Institute of Licensing (IoL) to emphasise the need for coordination to their members.

Conclusion / Recommendation 21:

We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. There is therefore no point in including as an objective something which cannot be related back to particular premises. (Paragraph 250)

Government response

The Government welcomes the Committee's comments on the nature and purpose of the licensing objectives.

The existing licensing objectives, as provided for in section 4 of the Act, seek to reduce harm that can be evidenced. Requiring licensing authorities to consider the provision of social or cultural activities for example, or anything similar, would run in contradiction to the other licensing objectives.

Conclusion / Recommendation 22:

Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective. (Paragraph 261)

Government response

The Government is committed to working with public health organisations and professionals, in particular Public Health England, to support local areas to tackle the public health harms associated with excessive alcohol consumption. Public health teams have an important role to play in the licensing system, and that is why they have a statutory role as a responsible authority under the 2003 Act.

We believe there is much that can be done within the existing licensing framework. The Government's interest in this area has helped spark a range of work to provide better access to health data and improve public health's engagement, as a responsible authority, with licensing. This has brought many benefits, including better decision making, improved partnership working, better informed commissioning of services, service delivery and design.

We are determined to continue to support an increased focus on public health engagement with licensing. We are working with public health stakeholders to ensure that the promising work underway in this area continues and that new evidence is considered to support future policy decisions. This includes promoting the use of Public Health England's analytical support package¹⁴ to improve access to and use of health data and supporting the Information Sharing to Tackle Violence programme to encourage A&E departments to share their data with Community Safety Partnerships. The new Local Alcohol Action Area programme is a key driver of much of our work in this area through the promotion and sharing of best practice and support with overcoming barriers to data use.

Conclusion / Recommendation 23:

We do not recommend that 'enjoyment of licensable activities', 'the provision of social or cultural activities', or anything similar should be added as a licensing objective. (Paragraph 265)

¹⁴ <https://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams>

Government response

The Government does not intend to introduce a licensing objective relating to the provision of social or cultural activities or anything similar. As stated above (in response to conclusion / recommendation 21), the existing licensing objectives seek to reduce harm. Requiring licensing authorities to consider the provision of social or cultural activities, or anything similar, would run in contradiction to the other licensing objectives, all of which are aimed at harm reduction.

The Act already takes into account the provision of social or cultural activities by ascribing inherent value to all of the licensable activities, requiring licensing authorities to grant an authorisation, subject to substantive concerns stemming from the existing licensing objectives.

Conclusion / Recommendation 24:

We do not recommend adding as a licensing objective ‘compliance with the Equality Act 2010’ or ‘securing accessibility for disabled persons’.

(Paragraph 272)

AND

Conclusion / Recommendation 25:

We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement. (Paragraph 277)

Government response

The Government is sympathetic to the issues that have been raised in relation to accessibility for disabled people and the problems with ensuring businesses and service providers comply with the requirements in the Equality Act 2010. Licensed premises are places where many of us choose to socialise and are therefore an important part of our daily lives, and too many of these venues are difficult for disabled people to access.

However, we agree with the Committee that adding to the licensing objectives is not the answer. The Act, and the licensing objectives, must be used to address issues that apply to the licensable activities and are therefore unique to licensed premises. The Act should not be used to control other aspects of licensed premises; this would be outside the scope of the licensing regime and contrary to the principles of better regulation. The 2017 Conservative Party manifesto made a commitment to review disabled people’s access and amend regulations if necessary to improve disabled access to licensed premises, parking and housing.¹⁵

¹⁵ <https://s3.eu-west-2.amazonaws.com/manifesto2017/Manifesto2017.pdf> page 58

We will consult disabled peoples' organisations to understand better the extent of the problem from the perspective of those with a broad range of disabilities, their carers and families. We will work with the National Association of Licensing Enforcement Officers (NALEO) who gave evidence to the Equality Act 2010 and Disability Committee on this matter, and the representatives of the licensed trade to explore what practical measures can be taken. We hope this will result in significant improvements for disabled people without the need for additional regulations.

Conclusion / Recommendation 26:

We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities. (Paragraph 309)

Government response

The Government does not intend to grant local authorities these powers. We have outlined Government plans to tackle alcohol pricing through taxation, particularly the issue of high strength products, in the response to recommendation four.

We welcome the recent guidance on street drinking¹⁶ published by the Association of Police and Crime Commissioners, which calls for a multi-component approach to tackling this issue that includes an offer of treatment and engagement with services such as housing and mental health to support street drinkers, as well as effective enforcement activity.

Conclusion / Recommendation 27:

The Coalition Government's Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products. If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specifics of packaging. (Paragraph 310)

Government response

The Government notes the Committee's comments on the Responsibility Deal and the suggestions for future schemes.

¹⁶ <http://www.apccs.police.uk/wp-content/uploads/2013/11/Tackling-Street-Drinking-PCC-Guidance-on-Best-Practice.pdf>

Working in partnership with industry has delivered significant benefits, for example improving consumer choice of lower alcohol products by removing 1.3 billion units of alcohol from the market.

The Government is considering how best to work with partners to build on the foundations to tap into the potential for businesses and other organisations to improve public health and tackle health inequalities through their influence over food, alcohol, physical activity and health in the workplace.

Conclusion / Recommendation 28:

We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means. (Paragraph 316)

Government response

In the Modern Crime Prevention Strategy, the Government committed to consult on a group review intervention power (GRIP) to enable licensing authorities to consider the licensing conditions of a group of premises to address problems in a specific location. Where there are serious concerns about individual premises, licensing authorities will continue to use the existing review process; the group review intervention power would not itself result in the closure of premises.

Before proceeding with a consultation on the introduction of a GRIP, the Government will explore whether similar measures could be achieved within the existing system.

Conclusion / Recommendation 29:

While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government's Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)

AND

Conclusion / Recommendation 30:

We recommend that legislation based on part 1 of the Alcohol etc (Scotland) Act 2010 should be introduced in England and Wales at the first available

opportunity. In the meantime, the section 182 Guidance should be amended to encourage adoption of these measures by the off-trade. (Paragraph 322)

Government response

The Government does not intend to introduce legislation based on part 1 of the Alcohol etc (Scotland) Act 2010.

Research published to date on the impact of the provisions in part 1 of the Alcohol etc (Scotland) Act 2010 suggests that these restrictions have had a limited impact on the amount of alcohol sold by the off-trade and the manner in which it is sold.

Although the research cited by the Committee, conducted by NHS Health Scotland and the University of Glasgow, suggests that the legislation was associated with a decrease in off-trade sales of wine in Scotland in 2013, other studies have shown little or no impact.¹⁷ Research showed that following the ban on multi-buy promotions, households bought alcohol on more occasions but bought fewer products per shopping trip.¹⁸ The PHE Evidence Review also concluded that bans on price promotions are not as effective and are easily circumvented.¹⁹

The Act already includes a mandatory condition for all premises selling alcohol to have an age verification policy that must, as a minimum, require people who appear to be under 18 to produce identification on request. Many licensed premises have adopted the challenge 21 or 25 scheme; we therefore do not consider it necessary to make this a legislative requirement. The industry signed up to support staff locally to take action, for example by introducing Challenge 25 as standard, in the Modern Crime Prevention Strategy.

The section 182 guidance is not an appropriate means to encourage the industry to adopt these measures on a voluntary basis, as the guidance is provided for licensing authorities in relation to the carrying out of their functions under the Act.

Conclusion / Recommendation 31:

Temporary Event Notices are used for a wide range of purposes, and the impact of a particular event on local residents cannot be reliably determined by whether they fall into broad ‘community’ and ‘commercial’ categories. We do not recommend the division of the current TENs system into ‘community’ and ‘commercial’. (Paragraph 344)

Government response

We agree with the Committee’s view that changing the current system or introducing different systems for community and commercial events would be undesirable and the Government does not intend to introduce this division.

¹⁷ Curnock et al, 2012; Nakamura 2014; Lewsey et al 2016.

¹⁸ Nakamura 2014.

¹⁹ <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

Conclusion / Recommendation 32:

We recommend that licensing authorities be given the power to object to Temporary Event Notices, alongside police and environmental health officers. A system for notifying local councillors and local residents of TENs in a timely fashion should also be implemented. (Paragraph 349)

Government response

The power to object to TENs is limited to police and environmental health teams to ensure the system remains light touch. There should, in any case, be dialogue between licensing authorities and the police and environmental health teams in cases where previous problems have occurred. Feedback from licensing authorities suggests that having the power to object to TENs would not be practical within the statutory time period allowed, due to the high volumes received and the additional scrutiny that would be required.

Licensing authorities have suggested that introducing a requirement to implement systems for notifying local councillors and residents is likely to be impractical. There is already a requirement to publicise TENs in the licensing register and many councils already publicise TENs on their online registers. In some areas residents can sign up for notifications through the Environmental Health Team. The law does not specify whether TENs have to be publicised before or after the planned event, but licensing authority feedback suggests that there would be practical difficulties with publicising TENs beforehand, particularly late TENs (although they can be emailed to local councillors at the same time as environmental health and the police). Similar issues are likely to occur if notices had to be posted in the vicinity.

The Government proposes that the section 182 guidance should recommend that licensing authorities consider how to bring TENs to the attention of residents who may be particularly affected, for example if there have been previous complaints about a premises (licensed or not).

Conclusion / Recommendation 33:

We recommend that section 106 (2) of the Licensing Act be amended, replacing the words 'before a hearing' with 'before or during a hearing' to enable TENs to be amended during a hearing if an agreement is reached. (Paragraph 352)

Government response

Having considered this recommendation carefully following feedback from licensing authorities, the Government is of the opinion that section 106(2) should not be amended. Modifications to TENs can be agreed through discussions between the premises user and relevant persons (police or environmental health) in the period before the hearing. The sub-committee can then either accept or

reject the notice in its entirety and this process works well. The police and environmental health authority have three days to consider a TEN and changing the Act to allow modifications to be agreed at the hearing would reduce the time available to consider the matter fully. This change is likely to require licensing authorities to arrange additional hearings at very short notice, leading to additional resource implications and administrative burdens.

In cases where there is a licence or club premises certificate in relation to at least a part of the premises in respect of which the TEN is given, the licensing authority can impose existing licence conditions on the TEN at the hearing. Where all the parties agree that a hearing is not necessary and the licensing authority has decided not to give a counter notice on the basis of an objection, it may also impose existing licence conditions on the TEN.

Conclusion / Recommendation 34:

Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear. (Paragraph 354)

Government response

The Government believes that in every case it is important that licensing authorities focus on whether the premises user intends to exceed the 499 person limit. In such cases it is likely that the police should be engaged and, where this is done in a way which is contrary to the spirit of the law, that objections will be raised. We will amend the section 182 guidance to make this point clear.

If the number of people present on any premises (including staff, organisers, stewards and performers etc) at any one time exceeds 499 while licensable activities are being carried on under a TEN, the licensable activities would be unlawful and the premises user would be liable to prosecution. Under the Act a “premises” can mean any place. Premises will therefore not always be a building with a formal address and can include, for example, public parks (including plots within larger areas of land) and private land. The Act also permits multiple TENs to be given simultaneously where the limits are not exceeded in the case of each notice. The law therefore provides lots of flexibility and opportunities for premises users to hold a wide range of events in different circumstances.

In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises is, for example, an open field or a beer tent. The premises user should also provide a description of the nature of the event in order to assist the police and local environmental health authority in deciding if any issues relating to the

licensing objectives are likely to arise. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time and it should be made clear how this will be achieved, for example if door staff are employed with counters.

It is ultimately for the licensing authority to determine whether events should be allowed to go ahead in each case, based on the promotion of the licensing objectives and permitted limits. Where a notice is given correctly, the permitted limits are not exceeded and there are no objections from the relevant persons, the event should be allowed to take place, as is usually the case.

Conclusion / Recommendation 35:

Although it is difficult to know whether the inadequate recording of TENs is widespread among local councils, we recommend that the section 182 Guidance be strengthened and clarified with respect to the collection and retention of TENs. It should clarify what personal information should be retained and in which particular format. (Paragraph 357)

AND

Consultation / Recommendation 36:

This information must be retained in a system allowing for its quick and easy retrieval, both by local authorities and by the public, and in such a way that local and national statistical data can be produced from them. The national GOV.UK platform should be used for receiving and processing TENs. (Paragraph 358)

Government response

The Government collects statistics on the number of TENs and late TENs received, withdrawn, modified, and rejected.

Section 8 of the Act requires all licensing authorities to keep a register containing a record of, among other things, each temporary event notice received. Under Schedule 3 the licensing authority must also keep a record of any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person, any TEN received following modification and any copy of a TEN received following loss or theft of an original. If requested to do so a licensing authority must supply a person with a copy of the information contained in any entry in its register.

Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment.

The Government believes that the systems in place are sufficient, but agrees that guidance on the requirements for storing and retaining information should be strengthened and clarified and will amend the section 182 guidance accordingly.

[See response to recommendation 65 regarding the use of Gov.uk.]

Conclusion / Recommendation 37:

We recommend that section 67 of the Deregulation Act 2015, relating to Community and Ancillary Sellers' Notices, should not be brought into force, and should be repealed in due course. (Paragraph 368)

Government response

The Government notes the points raised by the Committee in relation to the Community and Ancillary Sales Notice (CAN).

The Government is giving further consideration to the impact of introducing the CAN in the future, and will report to the House in due course.

Conclusion / Recommendation 38:

We are convinced that licensing is a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists. Although we are aware of the many demands currently placed on police resources, the proper and attentive licensing of premises has a considerable if sometimes indirect impact on public reassurance and wider aspects of crime and disorder. It is therefore important that the role of police licensing officers should not be diluted or amalgamated, as evidence suggests is occurring in some constabularies. They do not need to be sworn police officers and in many cases it may indeed be preferable that this role be performed by civilian staff. (Paragraph 379)

AND

Conclusion / Recommendation 39:

We recommend the development and implementation of a comprehensive police licensing officer training programme, designed by the College of Policing. While we accept that such an undertaking will require additional funds, these costs will likely be more than offset if the quality of police licensing decisions is improved, thereby reducing the number of appeals and other corrective procedures. (Paragraph 388)

Government response

The Government agrees that comprehensive training should be available to all officers required to undertake licensing duties. All probationary police officers

currently undergo training in licensing issues as part of the basic training provided to all those joining the police force.

The College of Policing is an independent membership organisation with an established process in place for training to be commissioned. This process ensures that commissions are not duplicated, serve the best interests of its members and partner organisations and that the work is carried out in the most efficient way making best use of College resources.

The College has already completed its business plan for 2017/18 and allocated resources accordingly. Nevertheless, the Government will work with the College and relevant partners to consider whether to commission this training in the future as part of our work to professionalise the licensing system.

Conclusion / Recommendation 40:

We believe it is highly likely that licensing committees will take police evidence seriously, especially if it is presented in a consistent and compelling fashion, regardless of whether they are required to by the section 182 Guidance. The risk that presently exists is that this additional emphasis could lead some licensing committees to partially or fully abdicate their responsibility to scrutinise police evidence to the same high standards as they would any other evidence. Our evidence suggests this is indeed occurring in some areas. It is entirely wrong that police evidence should be given more weight than it deserves solely because of its provenance.
(Paragraph 400)

AND

Conclusion / Recommendation 41:

Given evidence that paragraph 9.12 of the section 182 Guidance is being misinterpreted by licensing committees, and the fact that similar sentiments, more clearly stated, are already expressed in paragraph 2.1 of the Guidance, we recommend that paragraph 9.12 be removed. (Paragraph 401)

Government response

Evidence provided by a responsible authority, including the police, must be subject to sufficient scrutiny at a hearing. We agree with the Committee's statement that licensing committees will take police evidence seriously and that the additional emphasis in paragraph 9.12 of the guidance is not needed.

We will amend paragraph 9.12 to remove this emphasis.

Conclusion / Recommendation 42:

We support the Government's current move to transfer Cumulative Impact Policies from the section 182 Guidance and to place them on a statutory footing as this will introduce much needed transparency and consistency in this area. (Paragraph 409)

Government response

Cumulative Impact Policies (CIPs) assist licensing authorities in carrying out their functions in relation to controlling the number or type of licence applications granted in an area where there is evidence of problems caused by high numbers of licensed premises concentrated in the area. Prior to these changes they have had no statutory basis and not all licensing authorities have been making effective or consistent use of CIPs. As seen in evidence presented to the Committee, the licensed trade has had longstanding concerns about the transparency of the process and quality of evidence used to implement CIPs.

The Government is pleased that the Committee supports the move to put CIPs on a statutory footing in order to provide greater clarity, transparency and legal certainty about their use. The changes were introduced by the Police and Crime Act 2017 but commencement of the new provisions was put on hold while the Government awaited any recommendations made by the Committee. The measures will now be commenced at the next available opportunity.

Conclusion / Recommendation 43:

We agree with criticism of the drafting of the new section 5(5A) of the Act, as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies. (Paragraph 412)

Government response

The Government consulted with partners to ensure that important principles around decision making under the Act and powers of discretion afforded to licensing authorities were retained. Upon commencement of the provisions on cumulative impact, detailed statutory guidance on the process and what the changes mean for all parties will be published as part of the main s182 guidance document. In particular, the guidance will set out clearly that licensing authorities will continue to have the power of discretion to depart from their licensing policy statements, where it is appropriate to do so, and accept applications in cumulative impact areas on a case-by-case basis.

Conclusion / Recommendation 44:

We were surprised to learn that the Home Office have not collected centralised figures on the use of relatively serious police powers until now,

and that figures relating to section 169A closure notices are presented in such a confusing and misleading way. (Paragraph 416)

Government response

As stated in the Committee's report, statistics on closure notices issued under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 will appear in future *Alcohol and late night refreshment licensing* publications. The current publication identifies section 169A closure notices in the title of Table 13b.²⁰

Conclusion / Recommendation 45:

We recommend that the section 182 Guidance be amended to make clear that the service of a Closure Notice pursuant to section 19 of the Criminal Justice and Police Act 2001 does not:

- **Require the premises to close or cease selling alcohol immediately; or**
- **Entitle the police to require it to do so; or**
- **Entitle the police to arrest a person on the sole ground of non-compliance with the notice. (Paragraph 421)**

Government response

This power allows the police or local authority to close premises that are selling alcohol without a licence to do so. In most instances it will be police and local authority licensing officers who use the power and we will amend the section 182 guidance to bring clarity to this issue as the Committee suggests.

Conclusion / Recommendation 46:

We sympathise with the police, practitioners and businesses who cannot always fully comprehend the complex process surrounding interim steps. We conclude that instead of conferring discretion upon the sub-committee to impose further interim steps upon a licensee pending appeal, a discretion to impose with immediate effect the determination of the sub-committee reached upon the full review would be preferable. This final decision must represent the sub-committee's more mature reflection upon the situation, based upon the most up to date evidence, and this ought to be the decision that binds the licensee, if immediacy is a requirement, rather than the suspended interim steps. (Paragraph 431)

Government response

In developing the legislation on summary reviews, the Government sought to provide clarity and legal certainty while offering maximum flexibility for licensing authorities and fairness to all parties. The Government is encouraged to see that the Committee considers that the amendments introduced by s136-137 of the

²⁰ <https://www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016-data-tables>

Crime and Policing Act 2017 are likely to resolve the difficulties that have been highlighted with the summary review process.

We do not agree that the alternative solution proposed by the Committee would be preferable. We considered such a proposal as part of the Government's published impact assessment.²¹ The alternative proposal was based on existing principles in the Gambling Act 2005 and while it would have removed the ambiguity in the law, it was decided it did not fully meet the Government's objectives. Research into existing practices suggested that, under the alternative solution, licensing authorities would be more likely to implement decisions immediately to ensure the promotion of the licensing objectives. In cases where licensing authorities decided to implement the review decision immediately, necessary safeguards to prevent continuing problems would be put in place straight away. However, this would give businesses little time to adjust, in particular to any costly or permanent structural changes or revocations.

Over time we believe this would have created an upward pressure on appeal rates and expose licensing authorities to an increased risk of legal challenge and costs later down the line. We believe it would also have led to calls to introduce a right to an expedited full appeal against the decision, as a counter-balance (as modelled in the impact assessment), which would have placed further pressure on the courts. If licensing authorities chose not to implement the review decision immediately, and an appeal was lodged, this could have resulted in a period of several months where no measures were in place to protect the public and neighbouring premises.

Unscrupulous businesses may have sought to exploit this loophole which could have led to a risk of increased crime and violence. Even where no appeal was lodged there would, under this alternative proposal, be a statutory 21 day period where no protective measures would be in place.

The Government's solution ensures that the public and neighbouring premises remain protected throughout in every case, as licensing authorities can continue to place interim restrictions on any premises which it considers to pose a threat, including suspension of the licence. It also provides licensing authorities with flexibility to exercise their discretion when deciding what interim steps are appropriate to remain in place after the hearing. All parties now have the opportunity to make representations and have their say at the review hearing in respect of both the interim steps and the final decision. Any interim steps that remain in place after the hearing should therefore be proportionate. The additional right of appeal to a magistrates' court in relation to the interim steps makes this option compatible with the ECHR. Any risk of increased costs and burdens on the courts as a result of the additional expedited appeal right is expected to be minimal as each party would have had the opportunity to put forward their case

²¹ <https://www.gov.uk/government/publications/policing-and-crime-bill-firearms-and-alcohol-licensing>

less than a month before and we would usually expect the expedited appeal hearing to be lighter touch and shorter than the appeal against the main (s53C) decision later down the line.

Conclusion / Recommendation 47:

Within the Anti-Social Behaviour, Crime and Policing Act 2014, the power of the magistrates to ‘modify’ the closure order is curious wording, which has already perplexed the magistrates courts, given that the magistrates are just as likely to be invited to exercise their power to lift the revocation and re-open premises at a time when the original closure order has expired as they are during the currency of that closure order. We recommend a clarification of this wording. (Paragraph 436)

Government response

Schedule 5, 18(4) to the 2003 Act allows a magistrates’ court to ‘modify’ a closure order pending appeal. This allows the magistrates’ court to decide that the premises may re-open pending the appeal.

Section 167 of the 2003 Act deals with the review of a premises licence following a closure order. Where a magistrates’ court has made a closure order, the licensing authority must review the premises licence and may take one of the steps listed in s.167(6)(a)-(e).²² If the licensing authority decides to revoke the premises licence then the premises will remain closed until the appeal is disposed of or the time for appeal has expired. Schedule 5(18)(4) allows a magistrate to override this and determine that the premises may re-open pending appeal. S.168(7) refers to paragraph 18(4) to Schedule 5 as the ‘power of magistrates’ court to modify closure order pending appeal’. Although the reference to ‘modify’ is not used in schedule 5(18)(4) itself, the effect of that paragraph is clear and further clarification is not needed.

The Committee erroneously refers to Schedule 5 to the Anti-Social Behaviour, Crime and Policing Act 2014. The term ‘modify’ is not used in the 2014 Act in relation to the closure power.

Conclusion / Recommendation 48:

We believe the appointment of the Night Czar and other champions of the night time economy (NTE) has the potential to help develop London’s NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of

²² The steps at s.167(6)(a)-(e) are: a) to modify the conditions of the premises licence; b) to exclude a licensable activity from the scope of the licence; c) to remove the designated premises supervisor from the licence; d) to suspend the licence for a period not exceeding three months; e) to revoke the licence.

the parties in London's NTE. In time Night Mayors may also offer a model to other cities in the UK. (Paragraph 450)

Government response

The Government recognises the significant contribution that night time businesses make to the economy. As a result, we have reformed entertainment licensing and last year we made changes to permitted development rights, making it easier for well-established music and cultural venues to operate. We support the establishment of the Mayor of London's Night Time Commission and the appointment of the Night Czar and would encourage other local authorities to look at ways to enable growth in the night time economy.

We want to encourage people to live in our towns and cities, while at the same time, enabling the night time industries to thrive - providing local communities with valuable social hubs and cultural attractions. The regulatory regime must strike a balance between enabling people to enjoy themselves at well-run events and establishments while managing any adverse effects for residents.

We are also supporting local areas to undertake work to diversify their local night time economies through the Local Alcohol Action Areas programme. The aim of diversification is to develop night time economies that appeal to a broad range of society, not just those who wish to drink alcohol late at night.

Conclusion / Recommendation 49:

We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed. (Paragraph 466)

Government response

The EMRO is a powerful tool and accordingly it is appropriate that there are rigorous requirements to gather evidence and consult thoroughly before deciding to implement an EMRO. We note that the committee found that a small minority of evidence they heard considered that some form of EMRO-style power is still desirable (paragraphs 453 and 454) and that the basic assumption that local authorities should be able to issue a blanket ban on early morning opening hours is valid.

Although no licensing authorities have implemented an EMRO, we believe it is important to keep this tool available should any licensing authority wish to consider whether it is suitable for use in their area.

Conclusion / Recommendation 50:

While we acknowledge the concerns of local residents, we believe that overall the Night Tube is likely to have a positive impact for London's late

night licensed premises, their staff, and local residents. Not only will it provide a welcome boost to London's night time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21st century, but it may well also bring advantages for residents by dispersing crowds more effectively and efficiently. (Paragraph 472)

Government response

We agree with the Committee's conclusion on the likely benefits of the Night Tube and we also welcome this development.

Conclusion / Recommendation 51:

The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. Yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose. (Paragraph 487)

AND

Conclusion / Recommendation 52:

We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not be implemented until the Government has considered and responded to the recommendations in this report. (Paragraph 501)

AND

Conclusion / Recommendation 53:

Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished. However, we recognise that the Government's amendments may stand some chance of successfully reforming the Levy. We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect. (Paragraph 502)

Government response

The late night levy enables local authorities to collect a financial contribution from businesses that profit from selling alcohol late at night to contribute towards the cost of late night policing and other costs associated the night time economy. The Government recognises that they do so through taxes and business rates, but if the night time economy is creating an additional burden on policing in that area, the Government believes these businesses should make an extra contribution.

The levy is a discretionary power and, before implementing a levy, the licensing authority must consider the costs of policing and other arrangements for the reduction of crime and disorder in connection with the sale of alcohol between midnight and 6am, and the desirability of raising revenue via a levy.

The levy was brought into force in 2012. To date only seven licensing authorities have a levy, but those areas have used it to fund important initiatives. Revenue from the late night levy has been used to fund additional police officers and community protection officers, and projects designed to benefit those working and socialising in the night time economy, including a Club Host project aiming to reduce sexual harassment within clubs, first aid training for staff of licensed premises, defibrillators for town centres, taxi marshals and street cleaning. Home Office officials undertook a review in 2015 to understand why it has not been as popular with local authorities as originally envisaged. As a result of this review and consultation, the Government committed in the Modern Crime Prevention Strategy to improve the levy by making it more flexible for local areas, fairer to business and more transparent.

Amendments in the Policing and Crime Act 2017 will:

- Allow licensing authorities to target the levy in geographical areas where the night time economy places demands on policing;
- Give licensing authorities the power to charge premises licensed to sell late night refreshment the levy;
- Give PCCs the right to formally request that a licensing authority propose a levy triggering a consultation on whether to introduce a levy; and,
- Require licensing authorities to publish information about how the revenue raised from the levy is spent.

In accordance with the request of the Committee, these amendments have not yet been commenced. We will commence the provisions as originally intended. Many late night refreshment premises are small businesses and the Government is mindful of not imposing unnecessary or disproportionate charges on businesses. For this reason we will consult on the level of charge appropriate for late night refreshment premises and will not commence the measure to allow licensing authorities to charge the levy to late night refreshment premises until this is completed.

We have no intention to introduce a sunset clause through primary legislation to automatically repeal the legislation after two years. The legislation will be subject to a post-legislative review five years after Royal Assent as is standard practice.

Conclusion / Recommendation 54:

If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities. (Paragraph 503)

Government response

The levy is intended to assist with the additional costs associated with managing and policing areas within a locality due to the late night availability of alcohol. The local police bear the largest proportion of these extra costs and it is right that they should receive the bulk of the levy funds to enable them to do so effectively without detracting from funding required for the general policing across the local area.

As the committee notes, the Home Office guidance on the levy states that there is no bar to a local agreement between the licensing authority and the PCC to vary the percentage split by allocating some or all of the PCC's share of the revenue back to local authority initiatives. We therefore consider that the 70/30 split is appropriate and have no plans to change it.

Conclusion / Recommendation 55:

The EU Services Directive is an additional consideration which could have implications for the legality of the Late Night Levy. If the Government, contrary to our recommendation, decides to retain the Late Night Levy, the Home Office should satisfy itself that any further action relating to the late Night Levy complies with the EU Services Directive.

Government response

The Government will ensure before taking any further action in relation to the late night levy that it complies with the EU Services Directive.

Conclusion / Recommendation 56:

We welcome all the initiatives of which we have heard evidence, including BIDs, Best Bar None, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility such

schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality. (Paragraph 518)

Government response

We welcome the Committee's comments on the range of initiatives available to support local areas in managing their night time economies.

We continue to work closely with the Local Alcohol Partnerships Group through our Local Alcohol Action Areas programme to encourage and support local take up of these initiatives.

Conclusion / Recommendation 57:

We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement districts in the same way that they can the Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternatives.

Government response

We welcome the Committee's comments, but note that these are decisions for local areas.

Conclusion / Recommendation 58:

We believe that the Live Music Act 2012 is working broadly as intended, but that there is not presently a case for further deregulation, let alone the complete removal of all live music related legislation from the Licensing Act. (Paragraph 541)

AND

Conclusion / Recommendation 59:

We recommend that more be done to spread awareness of the provisions of the Live Music Act 2012 and its implications for licensed premises among local councils, licensed premises and local residents. (Paragraph 542)

Government response

Music venues are a vibrant and vital part of society, culture and the economy and Government is keen to support and promote an environment in which the UK's live music industry can continue to thrive. We want to encourage people to live in our towns and cities, while enabling small grassroots music venues to flourish - giving

musicians and artists the opportunity to perform in front of a live audience and providing communities with valuable social and cultural attractions.

Positive collaboration between the venues, local authorities and residents, including awareness raising, is key to supporting this important and dynamic sector.

Conclusion / Recommendation 60:

We recommend that a full ‘Agent of Change’ principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity. (Paragraph 553)

Government response

As noted in the Report, the consultation on the Housing White Paper includes a proposal to amend the National Planning Policy Framework to emphasise the “Agent of Change” principles in planning policies and decisions. Consultation on the White Paper closed on 2 May 2017 and the Department for Communities and Local Government is currently analysing the responses. A decision on whether to go forward with the proposal will be subject to the outcome of the consultation.

The Government will ensure the section 182 guidance remains consistent with the National Planning Policy Framework, if changes are made.

Conclusion / Recommendation 61:

We recommend that section 121 of the Police Reform and Social Responsibility Act 2011 be brought into force, and new Fee regulations made requiring licensing authorities to set licensing fees. (Paragraph 565)

Government response

The Government is grateful to the LGA for the research they commissioned from the Chartered Institute of Public Finance and Accounting (CIPFA) into the costs of administering the 2003 Act.²³ The data provided by the survey has greatly assisted the Government to come to its decision on whether to implement locally set licensing fees. It is clear from the survey that the costs of licensing vary significantly between licensing authorities and allowing fees to be set locally is not a simple answer to this issue. Although we acknowledge that for many licensing authorities the existing fees do not recover their costs, we also acknowledge the concerns raised by some smaller licensing authorities that the process of setting fees is complicated and resource-intensive.

The Government intends to make no change to the existing fees in the immediate future. A revaluation of business rates came into effect in April 2017, resulting in

²³ <https://www.local.gov.uk/licensing-act-2003-fees-survey-results>

increased rates for many licensed premises. This has had an additional impact in that some premises will have moved up a fee band, meaning that they have seen their business rates and their licensing fees increase as a result. Pubs were offered some business rates relief in the recent budget²⁴ and locally set licensing fees or an increase in the centrally-set fees would undermine the assistance that this rate relief has given licensees.

The Government therefore considers that now is not the time to make changes to licensing fees. The policy will be re-considered in due course.

Conclusion / Recommendation 62:

The Opinion of the Advocate-General in the case of Hemming has cast doubt on the legality of any element of a licensing fee which goes beyond the cost to a licensing authority of processing an application. Accordingly we consider that it would not be sensible to recommend the extension of the fee multiplier to supermarkets at this time. (Paragraph 581)

Government response

There are currently no plans to extend the fee multiplier to supermarkets but this will be reconsidered when any changes to licensing fees are considered in future.

Conclusion / Recommendation 63:

We recommend that the Home Office should consider whether the Fees Regulations should be amended to make them compatible with the EU Services Directive and the Provision of Service Regulations 2009. (Paragraph 582)

AND

Conclusion / Recommendation 64:

If, as we recommend, the power to set license fees is devolved to licensing authorities, then this power will inevitably have to be constrained by any conclusion which the Home Office draws on the compatibility of fees generally with the Directive and Regulations. (Paragraph 583)

Government response

The EU Fees Regulations and Provision of Services Regulations 2009 will be fully considered in future when further consideration is given to licensing fees.

Conclusion / Recommendation 65:

We recommend further development of the GOV.UK platform for licensing applications, to ensure that it is working with local authority computer systems, and fully compatible with the provisions of the Licensing Act 2003.

²⁴ <https://www.gov.uk/government/topical-events/spring-budget-2017>

In due course, its uniform adoption by all local authorities in England and Wales should be encouraged by the Government and the section 182 Guidance updated accordingly. (Paragraph 590)

Government response

The Government fully supports digitalisation and departments are working towards achieving improvements in digital licensing.

The Autumn Statement 2014 announced a simplification programme for licensing with a specific commitment to an online application process where businesses would only have to register their details once. An online, account based, application and payment process would provide enormous efficiency savings for both businesses and licensing authorities.

The Government Digital Service (GDS) has provided a suite of online licence application forms, in response to the EU Services Directive 2009, but this was not a comprehensive list of licensing forms and take-up by licensing authorities has been patchy, as evidenced in the LGA's '*Online licensing survey*', published in July 2015.

Private sector solutions are being developed, such as the account-based system (I Apply) developed by software developer IDOX, currently being piloted by Leeds licensing authority. The I Apply system is based on the principles of the Planning Portal and will be funded in part through advertising revenue and subscription from those authorities using it. IDOX has also developed a taxi licensing platform for Wolverhampton licensing authority. Early indicators are that both are popular with businesses, and authorities have identified the prospect of huge efficiency savings in the licensing process. The company responsible for the Planning Portal are also considering the development of a similar product.

GDS have launched a project to look at developing a new online licensing platform for local Government, similar to the I Apply/ Planning Portal solution. Regulatory Delivery is monitoring the development of these products closely.

Conclusion / Recommendation 66:

We believe the enforcement of section 128 and 132A of the Licensing Act 2003 would be facilitated by a national database of personal license holders, against which to check those who are convicted of violent offences. We recommend the creation of a national database of personal license holders for use by courts and licensing authorities, linked to the Police National Database. (Paragraph 594)

Government response

The Government's Modern Crime Prevention Strategy commits to encourage licensing authorities to share information about individuals and premises that have

had their licences revoked. The Act also includes a power for the Secretary of State to provide for the establishment of a central database to maintain matters a licensing authority is obliged to register.

The LGA, the IoL and the National Anti-Fraud Network (NAFN) have recently announced a project aimed at developing a national register of taxi and privately hired vehicles licence refusals and revocations. This particular register will be maintained and hosted by the NAFN on behalf of all local authorities and it will be accessible to 86% of English and Welsh Councils at no extra cost.

The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences as of 6 April 2017 and the Government sees merit in the creation of a central register limited to records of refused, suspended and revoked personal licences, to facilitate more effective enforcement of the Act. The Government will work with the LGA, the IoL and the NAFN to examine the prospects of adding records of refused, suspended and revoked personal licences to the national register of taxi and privately hired vehicles refusals and revocations in order to address the problem of individuals making applications in different licensing authority areas following a refusal or revocation elsewhere.

We consider it would be disproportionately complex, resource intensive and expensive for the Government, local authorities and magistrates' courts to create and administer a database of all personal licences (there were over 650,000 in existence at 31 March 2016).

Similarly, the Government does not accept the necessity to link any such database to the Police National Computer or the Police National Database (which is an intelligence handling system holding operational policing information provided by individual forces and not an evidential system). Regulations made under the Act already require that, in order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, an applicant for the grant of a personal licence must include a criminal conviction certificate, a criminal record certificate or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority. Licensing authorities are required by law to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the Act and the police could accordingly consider whether to object to the application on crime prevention grounds. The Government considers these arrangements, alongside the new powers granted to licensing authorities, to be proportionate and adequate at present.

Conclusion / Recommendation 67:

We do not recommend that licensing committees be given the power to suspend or revoke a premises licence for non-payment of business rates.
(Paragraph 599)

Government response

We welcome the recommendation of the Committee. Business rates must be paid by all businesses and there are already enforcement remedies available to local councils for the non-payment of those rates. In our view, linking the payment of business rates to the right to hold a licence to sell alcohol is not an appropriate route to enforcing payment of business rates.

Conclusion / Recommendation 68:

The evidence we received on the application of the Act specifically to clubs suggests that they have adapted to it well. (Paragraph 609)

AND

Conclusion / Recommendation 69:

Given the decline in most forms of members' clubs, and the social value they hold in many communities, we believe that even minor adjustments which may help them should be made. We therefore recommend the removal of Conditions 1 and 2 by the repeal of section 62(2) and (3) of the Licensing Act 2003, abolishing the two-day waiting period required of new members. We acknowledge that at least some clubs will want to keep this waiting period in their club rules, and they will still be entitled to do so. (Paragraph 610)

Government response

As acknowledged by the Committee, members' clubs are not run commercially for profit and therefore they are entitled to certain benefits under the legislation. For example, there is no need for any employee or member to hold a personal licence; police have more limited rights of entry because the premises are considered private and not generally open to the public; and they are exempt from closure powers because they operate under their own codes of discipline and rules. For this reason, clubs must meet the qualifying criteria set out in the legislation, and instant membership is not permitted because this would allow the club to effectively sell alcohol to members of the public and therefore operate as a commercial business.

We note that the Committee received mixed views about whether or not the conditions set out in the Act should be abolished. We do not consider these to be a significant burden on members' clubs and therefore have no intention to alter or remove the provisions of the 2003 Act in respect of members' clubs.

Conclusion / Recommendation 70:

The designations of airports as international as international airports for the purposes of section 173 of the Licensing Act 2003 should be revoked, so

that the Act applies fully airside at airports, as it does in other parts of airports. (Paragraph 620)

AND

Conclusion / Recommendation 71:

The 1964 and 2003 Acts both refer to ports and hoverports as well as to airports, so that the same arrangements can be made portside. Our discussion has centred on airports. Any similar designation made for ports and hoverports should also be revoked. (Paragraph 621)

Government response

The Government shares the Committee's view that everyone should be able to enjoy a safe and disruption-free environment when using airports, as well as maritime ports, for travel, and disruptive behaviour should not be tolerated on any mode of transport. With over 260 million passengers travelling through the UK airports annually, 10 million passengers departing from UK ports on international ferry routes, and 2.8 million on main domestic ferry services in 2016, any disruptive passenger behaviour is entirely unacceptable and an issue that warrants further examination.

While the number of disruptive events remains small compared to the total passenger numbers, the occurrences seem to be on the rise. The most serious instances can even evolve into a situation that causes a safety issue. Ensuring the safety of all passengers is a priority for the Government, and we are committed to maintaining a travelling environment that is both safe and enjoyable for all passengers.

The Government takes the view that further engagement with affected parties is required to consider the full effects of the Committee's recommendation. On 21 July, the Government published its call for evidence as part of its work to develop a new UK Aviation Strategy. The call for evidence will be followed by a series of consultations during 2017 and 2018, one of which will focus on the consumer journey and experience. The consultation will seek, among other topics, views on how to limit the impact of disruptive passengers on the travelling public.

In addition, the Government will separately issue a call for evidence on the Committee's specific recommendation and is committed to working with airports, airlines, ports, operators, businesses, licensing authorities, passengers, the police and other interested parties. A call for evidence will allow the Government to carefully assess the practicalities and resources required to implement the Act in these environments, including looking at how barriers that hinder access for licensing officers can be overcome, as well as the impact extending the Act will have on businesses.

Conclusion / Recommendation 72:

The sale of alcohol on a railway journey does not need to be licensed. We accept that the Act cannot sensibly apply to a moving train and the railway companies have their own applicable bylaws. They also have the power where necessary to ban the sale and consumption of alcohol altogether, for example on train journeys to football matches. These powers seem to us adequate. (Paragraph 622)

Government response

We welcome the Committee's view on the sale of alcohol on train journeys. We agree that the current powers are adequate.

Conclusion / Recommendation 73:

We are concerned that section 141 of the Licensing Act is not being properly enforced, and that the few concerted attempts by local authorities to date have been lacklustre at best. Notwithstanding the difficulties of defining drunkenness, we believe that enforcement of section 141 needs to be taken far more seriously, and that by doing so many of the problems currently associated with the night time economy, in particular pre-loading and the excessive drunkenness and anti-social behaviour often linked with it, would be reduced. (Paragraph 629)

Government response

As the Committee notes, it is an offence under section 141 of the Act to knowingly serve alcohol to a drunk and to obtain alcohol for someone who is drunk.

The alcohol industry signed-up to a commitment in the Modern Crime Prevention Strategy to support staff locally to take action, including through providing information to improve knowledge of the law on the sale of alcohol to drunks.

While the number of people prosecuted for selling alcohol to a drunk, or for obtaining alcohol for a drunken person on licensed premises is low, we are continuing to improve awareness and enforcement of section 141, particularly through the Local Alcohol Areas programme. Several of the 34 areas involved in the programme have identified sales to drunks as one of the core issues they wish to address. We will ensure that good practice from the programme is disseminated widely to other local areas.

We also welcome approaches such as the Drink Less Enjoy More initiative in Liverpool and Swansea. An evaluation by John Moores University indicated this initiative had a positive impact, and Nottinghamshire is planning to adapt this approach for off-trade premises as part of its activity in the Local Alcohol Action Areas programme.

GAMBLING ACT 2005 - FOBT CONSULTATION ON PROPOSALS FOR CHANGES TO GAMING MACHINES AND SOCIAL RESPONSIBILITY MEASURES

Committee	Licensing Committee
Officer Contact	Stephanie Waterford 01895 27(7232)
Papers with report	Appendix 1 – DCMS Consultation Document Appendix 2 - Approved response to consultation
Ward(s) affected	All

HEADLINE

The Department for Digital, Culture, Media & Sport have launched a consultation to seek views on proposed changes related to gaming machines and social responsibility.

The Cabinet Member for Community, Commerce and Regeneration has approved a response on behalf of the Council.

RECOMMENDATION

That the Committee note the Council's response in Appendix 2.

INFORMATION

In late 2017, the DCMS released a consultation document seeking views on, among other things, reducing the maximum stake from £100 to either; £50; £30; £20 or £2 across all FOBT machines. The consultation document is attached as Appendix 1.

Fixed Odd's Betting Terminals (FOBT's) are high stake gaming machines which are located in Betting Shops. Currently, Betting Shops can have a maximum of 4 gaming machines each.

FOBT's are a source of much concern due to their addictive nature and are capable of accepting up to £100 per play every 20 seconds.

The Licensing Committee will be aware of the concerns about these machines from previous presentations and discussions.

The Cabinet Member for Community, Commerce and Regeneration has been briefed on the consultation and has approved the Council's response as the portfolio member responsible. The response is attached as Appendix 2.

A further update will be presented to the Committee once the outcome of the consultation is published by the Government.

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

None



Department for
Digital, Culture
Media & Sport

Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures

October 2017

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Ministerial Foreword



The Government wants a healthy gambling industry that responsibly generates investment and employment. For millions of people gambling is a leisure activity and to support the industry, the Gambling Act 2005 permitted licensed gambling to be offered and advertised within a well regulated framework. This Act created a strong independent regulator, the Gambling Commission, whose job it is to keep gambling free of crime, ensure it is fair and open, and protect children and vulnerable people from harm or exploitation.

The Act was implemented under the Labour government 10 years ago. In that time, we have seen significant changes to the market, to public perceptions of gambling, and to our understanding of harm across the gambling landscape.

Upon announcing this review we set out that the objective is to look across the industry and determine what, if any, changes are needed to strike the right balance between socially responsible growth and the protection of consumers and the communities they live in. This Government is determined to address this balance, to step up and act to ensure that appropriate measures are in place to protect the vulnerable people that are exposed by the current weaknesses in protections.

I am clear that our approach should not just be about tackling headline problem gambling rates, but about managing the risk of gambling-related harm to the player and more widely to families, friends, employers and neighbourhoods. With this in mind, this consultation brings forward a package of proposals which responds to strong evidence and public concerns about the risks of high stakes gambling on the high street, with the aim of enhancing player protections on gambling machines that enable high rates of loss in short periods of time.

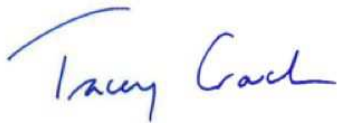
While some parts of the industry have put forward proposals to raise stake and prize limits, increase the number of machines, or bring new products to the market, I am not minded to bring forward significant changes at this time. While the Government welcomes ideas for socially responsible growth, any proposals must be backed up with clear evidence of adequate player protections and effective risk management strategies.

I am also aware of the significant growth in online gambling in recent years, which now accounts for 44% of the commercial gambling sector, with 10% of adults across Great Britain now participating in online gambling. The Government considers that more needs to be done to promote responsible play and protect consumers in this sector. The Gambling Commission is examining the online sector and encouraging operators to increase action to identify harmful play, design and pilot better interventions and put in place measures that work. We want to see the online sector fully engage with these objectives and this programme of work. In the meantime, we are strengthening existing protections relating to online gambling and outlining a

package of measures on gambling advertising to minimise the risk to the most vulnerable.

While the outcome of this review will be better protections for players, we also want to take this opportunity to think carefully about how to ensure that those who are experiencing gambling-related harm receive the help they need. We want to see industry and others step up to meet this challenge, with the support of the Government where needed, to transform the way those with addiction or harmful behaviours are supported.

I look forward to hearing from you on this important consultation, and I look forward to working with all interested parties to achieve our objective of a safe and sustainable industry.



TRACEY CROUCH MP
Minister for Sport and Civil Society
Department for Digital, Culture, Media and Sport
October 2017

Executive Summary

The Government announced a review of gaming machines and social responsibility measures in October 2016. The objective of the review was to ensure we have the right balance between a sector that can grow and contribute to the economy, and one that is socially responsible and doing all it should to protect consumers and communities, including those who are just about managing. We received 275 responses to the call for evidence and the submissions received have helped to inform our preferred proposals outlined below in regards to stakes and prizes on gaming machines, the availability of gaming machines and the wider social responsibility agenda. The responses to the call for evidence (with the exception of responses from the general public) have also been published alongside this consultation so that respondents can see the evidence that we have drawn on in developing these proposals. The main proposals put forward in the consultation are as follows:

1. We believe that the current regulation of **B2 gaming machines** is inappropriate to achieve our stated objective. We are therefore consulting on regulatory changes to the maximum stake, looking at options between £50 and £2, in order to reduce the potential for large session losses and therefore to potentially harmful impacts on players and their wider communities.
2. While the industry proposes increases to the remaining **stakes and prizes, permitted numbers and allocations across other categories of machine** (B1, B3, B3A, B4, C and D gaming machines), we believe retention of the current regulatory environment will better protect players from potential harm than industry's proposed increases.
3. We are aware that the factors which influence the extent of harm to the player are wider than one product, or a limited set of parameters such as stakes and prizes. These include factors around the player, the environment and the product. We are therefore also consulting on **corresponding social responsibility measures across gaming machines that enable high rates of loss, on player protections in the online sector, on a package of measures on gambling advertising and on current arrangements for the delivery of research, education and treatment (RET)**. Within this package, we want to see industry, regulator and charities continue to drive the social responsibility agenda, to ensure that all is being done to protect players without the need for further Government intervention, and that those in trouble can access the treatment and support they need.

1. Chapter One: Introduction

- 1.1. Ten years on from the implementation of the Gambling Act 2005, the gambling industry has evolved significantly, with the growth of the gaming machine market, increases in gambling advertising and a significant shift towards online gambling. While headline rates of problem gambling and at risk rates have been relatively stable in this time, the latest statistics show an increase in problem gambling rates from 0.6% of the population in 2012 to 0.8% of the population in 2015. Around a further 2 million people were identified as being at risk of problem gambling.¹
- 1.2. The Government is also concerned about the potential harm being caused to vulnerable people which would not be reflected in headline problem gambling rates. Gambling-related harm goes wider than the harm experienced by those identified as problem gamblers and also affects families of gamblers, their employers, communities and society more widely.
- 1.3. On 24 October 2016 the Government launched a review of gaming machines and social responsibility measures which began with a call for evidence. The Government's objective in initiating this review was to ensure we have the right balance between a sector that can grow and contribute to the economy, while also ensuring it is socially responsible and doing all it should to protect consumers and communities, including those who are just about managing.
- 1.4. The call for evidence sought evidence-based proposals on:
 - Maximum stakes and prizes for all categories of gaming machines permitted under the Gambling Act 2005;
 - Allocations of gaming machines permitted in all licensed premises under the Gambling Act 2005;
 - Social responsibility measures for the industry as a whole to minimise the risk of gambling-related harm, including but not limited to gaming machines.
- 1.5. 275 responses were received from:
 - Gambling industry
 - Local Authorities
 - Parliamentarians
 - Faith Groups
 - Charities
 - Members of the public

¹<http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

- Think-tanks/Academics

- 1.6. A full list of respondents is set out in Appendix B and related submissions received during the call for evidence will be published on the gov.uk website.

Next steps

- 1.7. The government is now bringing forward proposals across all strands of the review which we will consult on for 12 weeks. An Impact Assessment containing a cost/benefit analysis of the proposals has been published alongside this document.
- 1.8. This is a public consultation in which we welcome views from all parties with an interest in the way that gambling is regulated in Great Britain. The consultation period will run from 31/10/2017 to 23/01/2018 and there is a summary of the questions in chapter 7. You can respond to this consultation using our [online survey](#).
- 1.9. In addition, if you have any evidence to support your position then please send this to gamblingreviewconsultation2017@culture.gov.uk. By evidence, we are not seeking opinions, but published research, data or supporting analysis.
- 1.10. Gambling is devolved in Northern Ireland, but substantially reserved in Scotland and Wales. However, as of 23 May 2016, the Scottish Parliament and Scottish Ministers have the power to vary the number of high-staking gaming machines² authorised by a new betting premises licence in Scotland. Under the Wales Act 2017, identical powers were transferred to the Welsh Ministers and the National Assembly for Wales. We are committed to protecting the devolution settlements and will continue to work constructively with devolved administrations going forward.
- 1.11. This consultation is intended to be an entirely written exercise. Please contact the gambling and lotteries team if you require any other format e.g. Braille, Large Font or Audio. For enquiries about the handling of this consultation, please contact the DCMS Correspondence Team, heading your communication “Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures”.
- 1.12. Copies of responses (with the exception of responses from the general public) will be published after the consultation closing date on the Department’s website: www.gov.uk/culture. Information provided in response to this consultation, including personal information and any additional evidence supplied, may also be published or disclosed in

² Defined in the Scotland Act as gaming machines for which it is possible to stake more than £10 in respect of a single game; at present, this is possible only with sub-category B2 gaming machines.

accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (“FOIA”), the Data Protection Act 1998 (“DPA”) and the Environmental Information Regulations 2004).

- 1.13. Please notify us if any aspect of your response should be considered confidential. We also intend to share responses with the Gambling Commission, please inform us if you do not consent to this. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department. The department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

2. Chapter Two: B2 gaming machines (Fixed-Odds Betting Terminals)

Overview of findings

- 2.1. As outlined in the call for evidence, gaming machines are divided into categories depending on the maximum stake and prize available, the nature of the prizes and the nature of gambling for which the machine may be used, as well as the premises where they can be provided (see Appendix A). Certain categories of machines are limited to fewer types of gambling premises, for example, sub-category B1 machines are only permitted in casinos, while B2 machines are permitted in casinos and bookmakers. The call for evidence generated a substantive proportion of submissions regarding B2 machines, more commonly referred to as Fixed-Odds Betting Terminals (FOBTs); this chapter therefore addresses these machines independently of the other categories.
- 2.2. In response to the call for evidence, there was widespread support for a reduction in stake limits for B2 machines to £2. This is supported by the Local Government Association (LGA) and by 93 local authorities (LAs) across England and Wales from across all political parties (although we only received 27 submissions to the call for evidence from LAs, 93 LAs supported a Sustainable Communities Act submission in 2015 calling for a reduction to £2). This is also supported by a variety of campaign groups, charities and faith groups (those publicly supporting this proposal include the Church of England, Methodist Church and Quaker Foundation). In addition we received a submission from the All-Party Parliamentary Group on FOBTs which is calling for a reduction to £2 and a petition from the campaign group, 38 degrees, with over 100,000 signatories calling for a “crackdown on addictive betting machines and adverts” and “limits on how much people can gamble on betting machines in one go.”
- 2.3. The main arguments referenced in these responses focused on the disparity between the maximum stakes on B2 machines of £100 and the maximum stake on other gaming machines in accessible locations of only £2. Respondents argued that the £100 maximum stake was linked to gambling-related harm, wider harm to communities, and in some instances, anti-social behaviour.
- 2.4. As part of the call for evidence, the betting sector, represented by the Association of British Bookmakers (ABB), did not seek an increase in either stake or prize limits across the gaming machine categories permitted in betting shops but has argued for the need to maintain the status quo, specifically on B2 machines. Gaming machine suppliers, Inspired Gaming and Scientific Games, also submitted evidence in support of the status quo on B2 machines. The ABB argued that

income from B2 machines has become increasingly important to maintaining the viability of many high street betting shops. In addition, the ABB stated that there is no correlation between the increased number of B2 machines over time and levels of at-risk and problem gambling during the same period, and that B2 machines do not cause increased harm to problem gamblers. They also argue that session losses and potential harm are not just about stake, but about the interplay between stake, spin speed and the return to player ratio.

- 2.5. The Government acknowledges that B2 machines are important to the economic viability of many betting shops which currently employ around 53,000 people nationally. However, we cannot ignore the evidence put forward as part of the call for evidence to support action, or the persistent concerns from many stakeholders and local communities about these types of gaming machines and their potential impact on players and wider communities.
- 2.6. Based on the evidence we received, we do acknowledge and welcome the shift in attitudes within industry on the social responsibility agenda. However, we have concerns that (i) the bookmaking sector, and indeed the wider industry, has provided little evidence that self-regulatory measures introduced since 2013 have made any significant impact on the rates of problem gambling, or on the degree of harm experienced by individuals;³ (ii) measures taken to date do nothing to counter the wider social impact and the potential amplification of harm for those living in the most deprived communities; (iii) it is not clear whether previous regulatory action in this area, in the form of the £50 staking regulations, has had a measurable impact on harm. The Government evaluation of this measure found that there was a drop in stakes above £50, but an increase in stakes between £40-50.⁴
- 2.7. We therefore remain concerned about the current regulation of this sub-category of machine in terms of the impact on players and their wider communities. There are still large numbers of higher-staking machines in accessible locations, often in more deprived areas, where it is possible to lose a large amount of money very quickly.
- 2.8. We acknowledge that headline problem gambling rates have remained statistically stable since the introduction of B2 machines as well as before this point. However, headline problem gambling rates may not be significantly affected by a single form of gambling,⁵ and an over-reliance on this single metric may mask widespread harm caused to those who are most vulnerable. We are concerned that there remain consistently high rates of prevalence of problem gamblers among

³ <https://about.gambleaware.org/media/1167/abb-early-impact-report-final-report.pdf> & https://about.gambleaware.org/media/1335/pas-evaluation_final-report_13102016.pdf

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493714/Evaluation_of_Gaming_Machine_Circumstances_of_Use_Amendment_Regulations_2015.pdf

⁵ Participation rate on B2 gaming machines is approximately 1.5% of the adult population.

machine players in betting shops (11.5% of players are problem gamblers and a further 32% are considered at risk of harm),⁶ that a high proportion of gross expenditure on machines in betting shops is attributed to problem gamblers;⁷ and that a high proportion of the number of problem gamblers who present for treatment identify machines in betting shops as their main form of gambling.⁸

- 2.9. In regards to the specific issue of stake size, we know from industry data, published by the Gambling Commission, that the high-staking nature of B2 machines that offer a maximum stake of up to £100 can lead to significant losses in a short space of time. In comparison to other gaming machines, B2 machines generate a greater proportion and volume of large-scale losses (for example, more than £500 in a session).⁹ The same industry data, published by the Gambling Commission, also found that losses are larger and sessions longer for those who bet at the maximum stake than those who play at a lower level.¹⁰ The amount of money lost in a session and length of sessions are good proxies for gambling-related harm, and such losses might be harmful even to those who would not be defined by a survey screen as problem gamblers. In addition, research published by GambleAware, while making clear that gambling-related harm is not necessarily about one product in one environment, also stressed that problem gamblers are disproportionately found at higher stakes and are more frequent users of the maximum stake.¹¹
- 2.10. We are particularly concerned that the above factors are amplified by the concentration of betting shops (and therefore B2 machines) in areas of high deprivation. The same package of GambleAware research found that areas containing a high density of machines tend to have greater levels of income deprivation and more economically inactive residents¹²; players of B2 machines also tend to live in areas with greater levels of income deprivation than the population average; and alongside problem gamblers, those who are unemployed are more likely to use the maximum stake more often than any other socio-economic group.¹³

⁶ Health survey for England and Scotland 2012 showed that problem gambling rate was 7.2% rate amongst machine players in LBOs (of which B2s are the predominant machine). NatCen data for England, Scotland and Wales for 2015 showed that this figure had increased to 11.5% though this change was not considered statistically significant.

⁷ <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

⁸ <http://about.gambleaware.org/media/1259/natcen-secondary-analysis-of-loyalty-card-survey-final.pdf> p.6

⁹ <http://www.gamcare.org.uk/publications/annual-reviews-and-statistics>

¹⁰ <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

¹¹ Ibid

¹² <http://about.gambleaware.org/media/1259/natcen-secondary-analysis-of-loyalty-card-survey-final.pdf>

¹³ Contextualising machine gambling characteristics by location - final report - A spatial investigation of machines in bookmakers using industry data, Geofutures, 2015

¹⁴ <https://about.gambleaware.org/media/1259/natcen-secondary-analysis-of-loyalty-card-survey-final.pdf>

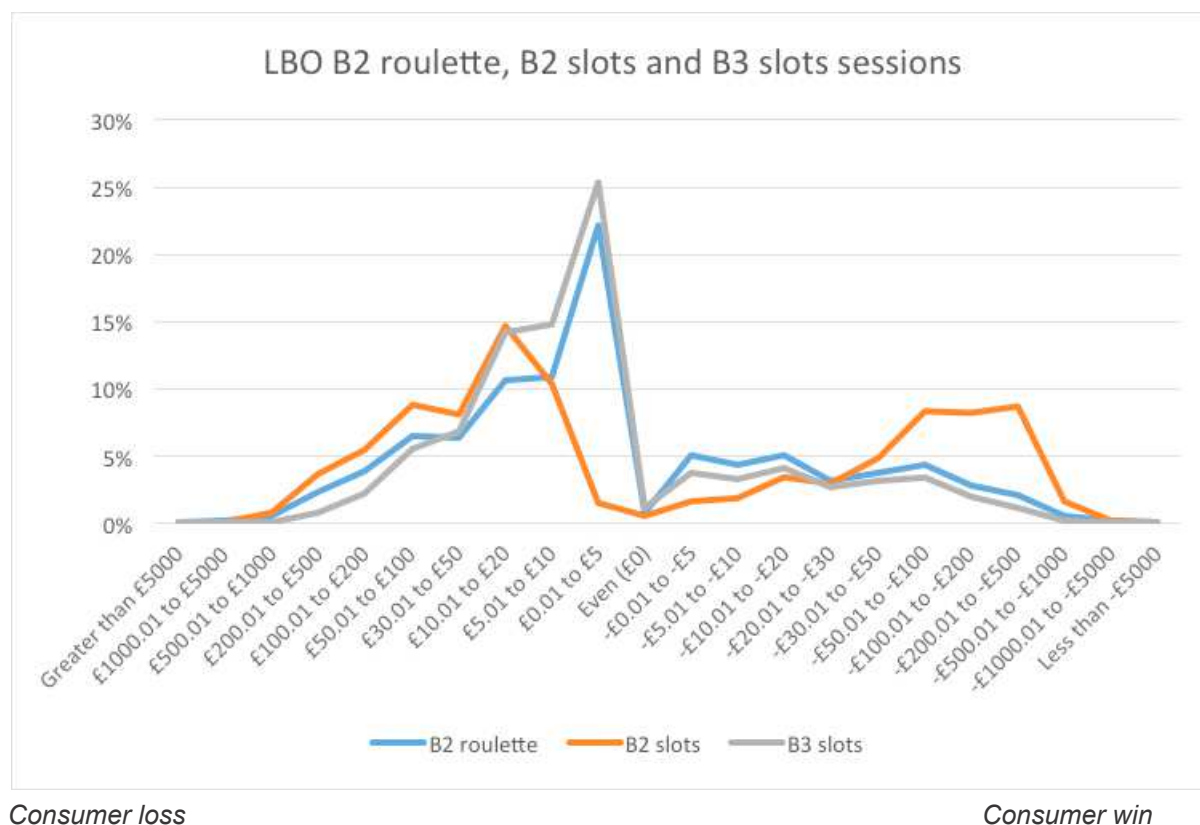
Policy options for consultation

- 2.11. Taken together, we think that the weight of evidence set out above justifies government action on B2 machines, but we acknowledge that there is limited evidence to inform exactly at what level the revised maximum stake should be. In outlining options for consultation, we are seeking to balance the potential impact on the economy and leisure gamblers against the need to reduce gambling related harm. For each option we outline staking patterns which set out the proportion of sessions which include certain stake levels, the spread of problem or at-risk gamblers at each staking level, and the relationship between high-level session losses (>£500), as a proxy for harm, and staking levels.
- 2.12. These are illustrative options, and in practice, subject to views at consultation, the maximum stake could be changed to levels other than the ones set out, and could also be accompanied by corresponding measures to improve player protections on these machines.
- 2.13. B2 machines offer a variety of games to players which we describe here as slots or non-slots. By slots, we are referring to a game which is mechanical or virtual in nature and which uses spinning reels, discs or other representations of moving or changing symbols. By non-slots we are referring to virtual games of the type played in casinos, primarily roulette, and other virtual sporting events such as horse and dog tracks.
- 2.14. The most popular non-slot game on a B2 machine is electronic roulette (approx 62.8% of the total Gross Gambling Yield (GGY)¹⁴ of £1.8bn attributed to B2 machines is non-slots, the majority of which is accounted for by roulette). B2 slot games make up 6.5% of the total GGY and the remaining 30.7% is made up of B3, B4 and C slot content (majority B3) which are also available on the same terminal in Licensed Betting Offices (LBOs). The options set out below are designed to take into account the differences in content as well as the way in which players play the different games. For example, with regard to B2 slots, industry data provided to the Gambling Commission¹⁵ during the call for evidence highlighted that there were a higher proportion of sessions with higher losses playing B2 slots than playing B2 roulette (see figure 1). Taking session losses as a proxy for potential harm, we think there are grounds for a greater reduction of the maximum stake for this type of game.

¹⁴ GGY is defined as the amount retained by operators after the payment of winnings but before the deduction of the costs of the operation (e.g. fees and betting and gaming duty).

¹⁵ Ibid

Figure 1. Session losses on B2 gaming machines in LBOs (source: Gambling Commission)



2.15. We are also aware that large session losses, and therefore potential harm, can be influenced by a combination of factors including stake size, spin speed and the return to player ratio (i.e. the minimum guide over time at which the machine pays out to players). We therefore think that options around maximum stake could be combined with corresponding measures aimed at other contributing factors to harm on machines, including the tracking and monitoring of play, spin speed and nudge type measures to improve player control. We also think there is a case for the introduction of similar measures on other gaming machines, such as category B1 and B3 machines (more detail in chapter 5):

- 2.15.1. We think that the tracking and monitoring of play has the potential to better inform policy decisions in regards to gaming machines as well as provide for more targeted interventions for problem gamblers on machines. We have requested more advice on this issue from the Gambling Commission.
- 2.15.2. Spin speed is another factor, alongside stake size, which can determine the amount that a player can lose in a given session. Currently the Gambling Commission's technical standards set the spin speed at 20 seconds on a B2 machine. This could be flexed on roulette content, for example, to better reflect roulette in a casino which has a spin speed of over a minute.

2.15.3. Finally, nudge-type measures would be aimed at giving players more control over the way in which they play the machines, and would include tools such as time and spend limits, with hard stops when limits are met.

2.16. A comprehensive cost/benefit analysis of all options is set out in the Impact Assessment published alongside this document.

Option 1 - Maximum stake reduced to £50 on all B2 content

2.17. In April 2015 the previous Government introduced measures on B2 machines to limit stakes to £50 for players that did not play through an account card or seek approval for stakes above £50 with staff in LBOs. This resulted in a large shift towards plays below £50. Under this option we could bar any play above £50 by bringing the maximum stake down to £50. This option therefore represents a minimal change to the status quo. We note the following points on this option:

- There is minimal play above £50 with approximately 99% of sessions ending with an average stake up to £50.¹⁶
- At or above £50, 46% of players were identified as problem gamblers and 41% were at risk of harm. 13% were categorised as neither problem nor moderate/low risk gamblers.¹⁷
- Of the sessions on B2 (non-slots) which ended with losses to the player greater than £500, approximately 73% of these sessions involved an average stake of £50 or less.

Option 2 - Maximum stake reduced to £30 on all B2 content

2.18. We note the following points on this option:

- Approximately 90% of sessions end with an average stake up to £30.¹⁸
- At or above £30, 42% of players were identified as problem gamblers and 42% were at risk of harm. 16% were categorised as neither problem nor moderate/low risk gamblers.¹⁹
- Of the sessions on B2 (non-slots) which ended with losses to the player greater than £500, approximately 17% of these sessions involved an average stake of up to £30.²⁰

¹⁶<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

¹⁷ RGSB advice in relation to DCMS review - <http://www.rgsb.org.uk/Publications/Publications.aspx>

¹⁸<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx> - These are average stakes per session, not the single maximum stake per session so more players will be affected in practice than the percentages shown here.

¹⁹ RGSB advice in relation to DCMS review - <http://www.rgsb.org.uk/Publications/Publications.aspx>

²⁰<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

Option 3 - Maximum stake reduced to £20 on B2 non-slots and £2 on B2 slots

2.19. We note the following points on this option:

- Approximately 82% of sessions end with an average stake up to £20.²¹ In addition, we know that the average stake is also around £20.
- At or above £20, 42% of players were identified as problem gamblers and 44% were at risk of harm. 13% were categorised as neither problem nor moderate/low risk gamblers.²²
- Of the sessions on B2 (non-slots) which ended with losses to the player greater than £500, approximately 6% of these sessions involved an average stake of up to £20.²³

Option 4 - Maximum stake reduced to £2 on all B2 content

2.20. We note the following points on this option:

- Approximately 17% of sessions end with an average stake up to £2.²⁴
- At £2 or below, 19% of players were identified as problem gamblers and 49% were at risk of harm. 32% were categorised as neither problem nor moderate/low risk gamblers.²⁵
- Of the sessions on B2 (non slots) which ended with losses to the player greater than £500, approximately 0.001% of these sessions involved an average stake of £2 or less.²⁶

Q1. Do you agree that the maximum stake of £100 on B2 machines (FOBTs) should be reduced?

If yes, what alternative maximum stake for B2 machines (FOBTs) do you support?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

²¹<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

²² RGSB advice in relation to DCMS review - <http://www.rgsb.org.uk/Publications/Publications.aspx>

²³<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

²⁴<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

²⁵ RGSB advice in relation to DCMS review - <http://www.rgsb.org.uk/Publications/Publications.aspx>

²⁶<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

3. Chapter Three: Stakes and prizes on other gaming machines

Overview of findings

- 3.1. As part of the call for evidence, the Government requested evidence-based proposals on maximum stakes and prizes for all categories of gaming machines permitted under the Gambling Act 2005. Following analysis of these submissions and the evidence provided in support of these proposals, the Government has put together two options for consultation on stakes and prizes:
- Industry proposals
 - Government's preferred options
- 3.2. The following section summarises the Government's considerations around these packages and the rationale underpinning its preferred options for each gaming machine category. More detail of these considerations and a comprehensive cost/benefit analysis is set out in the Impact Assessment published alongside this document.

Proposals from industry

- 3.3. The following table summarises industry proposals received as part of the call for evidence on stakes and prizes. Analysis of these options is set out below:

Table 1. Industry proposals on stakes and prizes

Machine Category	Speed of play	Current Max Stake	Current Max Prize	Ind proposed Stake	Ind proposed Prize
B1	2.5 seconds	£5	£10,000	No change	No change
B1 progressive jackpot	2.5 seconds	As for B1	£20,000	No change	£100,000
B3	2.5 seconds	£2	£500	£2.50	No change
B3A	2.5 seconds	£2	£500	No change	No change
B4	2.5 seconds	£2	£400	No change	No change
C	2.5 seconds	£1	£100	£2	£150
D non-money prize (other than crane grab machine)	n/a	30p	£8	50p	£10

D non-money prize (crane grab machine)	n/a	£1	£50	£2	£75
D money prize	n/a	10p	£5	20p	£8
D combined money and non-money prize (other than coin pusher or penny falls machines)	n/a	10p	£8 (of which no more than £5 may be a money prize)	20p	£10 (of which no more than £8 may be money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	n/a	20p	£20 (of which no more than £10 may be a money prize)	25p	£22 (of which no more than £12 may be a money prize)

Category B1 (primary markets affected: casinos, manufacture and supply)

- 3.4. The National Casino Forum (NCF), representing the land-based casino sector, requested that the maximum progressive (linked machine) B1 jackpot be raised to £100,000 (currently £20,000). They also asked that machines be permitted to be linked between casino premises, rather than within a single premises as at present, to enable this to be viable.
- 3.5. The NCF argue that progressive jackpots of this nature are well established in casino jurisdictions internationally, usually with higher prizes, and that the average stake per game in 2016 on progressive linked machines and non-progressive machines in UK casinos was the same, 90p.
- 3.6. The sector also asked for an amendment to the Gaming Machine (Circumstances of Use) Regulations 2007, increasing the amount which can be deposited and transferred between the bank and play meters on a B1 from £20 to £50.

Category B3 (primary markets affected: arcades, betting, bingo, casinos, manufacture and supply)

- 3.7. Category B3 machines continue to be the fastest growing gaming machine in the market in terms of numbers and GGY. Due to the availability of B3 content on gaming machines in Licensed Betting Offices (LBOs), this type of gaming machine is actually available on almost 56,000 machines across the casino, betting, arcade and bingo sectors.

- 3.8. Across all sectors, they now account for approximately £878m²⁷ in gaming machine GGY (with a 23% increase since 2013/14). B3s received an uplift in maximum stake from £1 to £2 in 2011.
- 3.9. As outlined above, category B3 gaming machine content is available in a number of different gambling premises. Only the arcade sector (Adult Gaming Centres and Family Entertainment Centres), represented by the British Amusement Catering Trade Association (BACTA), has proposed an increase in the maximum stake limit from £2 to £2.50 on the basis that this would provide an economic stimulus to the sector. No other sectors that can offer B3 content proposed changes to stakes and prizes. In support of its proposal, BACTA commissioned PriceWaterhouseCoopers (PwC) to provide estimates of the economic benefits this would bring. PwC estimate that this uplift would generate £33m (primarily a 6-7% increase in GGY which would equate to £20-23m as well as resulting machine sales) and an increase in taxes of £5m (primarily gaming machine duty). PwC's assessment of 'economic benefit' does not equate to Gross Value Added (GVA) which would also take into account displaced expenditure from other sectors.

Category B3A/B4 (primary markets affected: clubs, manufacture and supply)

- 3.10. There has been no submission for changes of stake or prize limits on these club-only gaming machines which occupy a niche in the gaming machine market. There is no data currently available to allow DCMS to properly assess performance within this sector.

Category C (primary markets affected: arcades, betting, bingo, pubs, manufacture and supply)

- 3.11. Category C content (traditional fruit machines) is permitted in bookmakers, arcades, bingo and pubs. Overall there are nearly 72,000 machines across arcades and bingo premises²⁸ which generated £227m in 2015/16 (up 3% since 2013/14). In addition, there are an estimated 40,000 in pubs which accounts for £594m.²⁹ The stake and prize limits for category C machines were increased from 50p/£35 to £1/£70 in 2009 and the maximum prize further increased to £100 in 2014.
- 3.12. On category C machines, BACTA, the British Beer and Pub Association (BBPA) and the Greene King pub chain have proposed an increase in the maximum stake to £2 and the maximum prize to £150.

²⁷ Includes a statistically negligible amount (0.1%) from category B4 and C play.

²⁸ 26,715 in arcades (AGCs), 1788 in seaside arcades (FECs) and 43,410 in bingo premises (though this number for bingo is skewed by the use of handheld terminals which are used in large numbers but not technically category C machines).

²⁹ BACTA commissioned PWC report figures

They argue that category C machines in the pub and arcade sectors are not economically viable and that previous uplifts have slowed the decline in revenue. Each of these organisations provided estimates of the expected economic impact of this change with varying degrees of supporting analysis.

- 3.13. On behalf of BACTA, PwC estimate that the proposed uplift would generate £72m (primarily increased GGY and machine sales) and £10m tax revenue, with a potential corresponding benefit to the 14-15 manufacturers who produce category C machines. The BBPA argue that the income from gaming machines can be vital in maintaining the economic viability of many pubs. In support of this they have provided evidence suggesting previous increases in 2009 (stake and prize) and 2014 (prize only) led to uplifts in machine revenue and that this proposed increase may see a 10% increase in gaming machine revenue. The BBPA also argues that there is no evidence to show category C machines in pubs are responsible for any increase in problem gambling and do not propose any corresponding social responsibility measures to accompany this increase.

Category D (primary markets affected: arcades; fairs; manufacture and supply)

- 3.14. Category D content is available in high street arcades (Adult Gaming Centres - AGCs) and seaside arcades (Family Entertainment Centres - FECs). Typical examples of these kind of machines would be crane grabs and coin pushers, featuring both monetary and non-monetary prizes. The stake and prize limits for most category D gaming machines were last changed in 2009, and coin pushers received a stake and prize increase in 2014. The most significant change was a new type, a crane grab machines with a £1/£50 stake/prize ratio; such machines previously operated at 30p/£8 ratio. Despite these uplifts, overall category D machine numbers have declined significantly since 2013/14.
- 3.15. The arcade sector, represented by BACTA and the British Association of Leisure Parks, Piers and Attractions (BALPPA) is seeking changes across five of the sub-categories (see table 1). BACTA argue that these changes would provide an essential stimulus to the sector. They consider this to be important for their future sustainability, given that while costs to the sector are increasing, they cannot increase the price of play or offer more attractive prizes to increase revenue. While crane grabs and penny pushers have seen increases in recent years, other category D machines, notably reel band gaming machines, have not seen an increase since 1997. PwC estimate that, taken together, these changes would generate £25.9m (primarily increased GGY and machine sales) and an additional £0.6m in tax. They argued that the available evidence on harm to young people from playing category D machines is inconclusive.

Prize gaming

- 3.16. The industry is calling for an increase in the maximum participation fee from £1 to £2 and a prize increase from £70 to £100 (and from £500 to £1,000 aggregate) on prize gaming.³⁰ The popularity of prize gaming has waned in recent years and a number of venues have removed their prize gaming units in favour of amusement machines. However, there is still a market for the game, particularly at the seaside. It provides for a more elderly clientele a longer, more sociable opportunity, akin to bingo, but at reduced stake and prize levels in a more convenient location.

Policy options for consultation

- 3.17. The Government's preferred proposals on stakes and prizes are to maintain the status quo across all categories covered in this chapter, with the exception of prize gaming. Our assessment of the proposals and rationale for this position is set out in more detail below.

B1 gaming machines

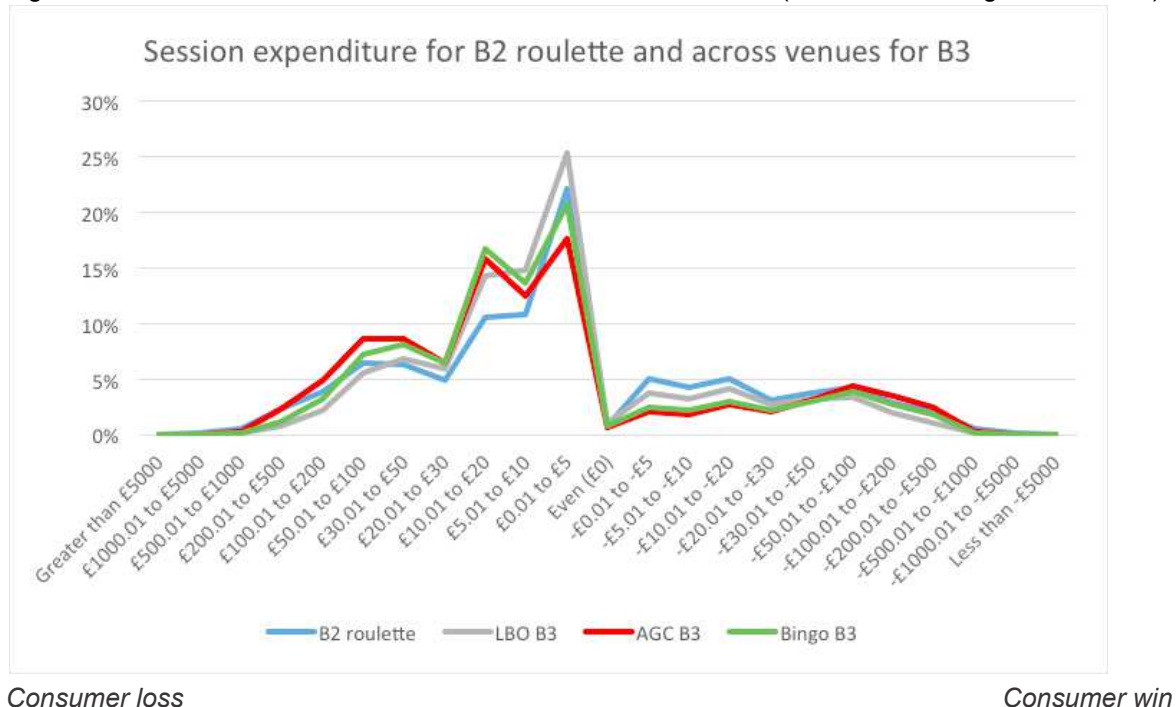
- 3.18. The industry has not provided an estimate of the impact on income or player behaviour of raising the linked jackpot, and there were no specific proposals to address the risk of increased player harm. Before 2014, the maximum progressive jackpot was £4,000, no more than the maximum prize on a single B1 machine. In 2014, the maximum prize on a single machine was raised from £4,000 to £10,000, and the maximum progressive jackpot from £4,000 to £20,000. Without more evidence the Government is therefore not minded to further increase the progressive prize to £100,000 at this point.
- 3.19. The current system of cash deposits and transfers provides a basic social responsibility control by slowing the speed at which players can commit funds to gambling, allowing consumers to consider their actions. The industry argument for increasing the cash deposit amount from £20 to £50 on B1 machines is based on historical consistency. The current limit of £20 applied under the previous maximum stake of £2, and was therefore ten times the maximum stake. Since the stake increase to £5, however, the £20 restriction is only four times the maximum stake. Although an increase to £50 would restore the stake to deposit ratio to 10:1, it would also speed up the committed-funds process. We therefore do not propose to implement this proposal unless evidence can be provided as to how operators would manage the risks it generates.

³⁰ Prize gaming is defined in Section 288 of the Act, and is gaming in which neither the nature nor the size of a prize is determined by the number of persons playing or the amount paid for or raised by the gaming.

B3 gaming machines

3.20. The Government acknowledges that BACTA's proposed increase is likely to provide an economic stimulus to the arcade sector, but this should be balanced with the fact that B3 gaming machines are now the fastest growing gaming machine category in terms of GGY and responsible for much of the growth in gaming machine revenue for those sectors that are permitted to offer this content. The Government also has concerns about an increase to the maximum stake on player protection grounds. Research suggests that there are significant levels of problem gambling amongst players of these machines (4.2% on B3 gaming machines in bingo halls³¹ and 11.5% on gaming machines in LBOs, both significantly higher than the headline problem gambling rate).³² The latest Health Survey data for 2015 also shows statistically significant increases in problem gambling rates on slots (of which B3 gaming machines are included) from 2.6% in 2012 to 5.7% in 2015.³³ In addition, industry data obtained by the Gambling Commission³⁴ during the call for evidence demonstrates that session losses and session duration on B3s have a comparability with B2s (see figure 2). High session losses and long sessions are good proxies for harm. Government is not therefore convinced that there is a rationale for an increase, but rather, a case for greater player protection measures on this category of machine (see chapter 5 for more detail).

Figure 2 Session losses for B2 roulette and across venues for B3 (source: Gambling Commission)



³¹ <http://infohub.gambleaware.org/wp-content/uploads/2016/07/Bingo-Research-Final-140716.pdf>

³² <http://about.gambleaware.org/media/1311/bingo-research-final-140716.pdf>

³³ <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

³⁴ <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

B3A/B4 gaming machines

- 3.21. As noted above, in the absence of relevant submissions on these categories, the Government is not minded to take forward any changes.

Category C gaming machines

- 3.22. The Government recognises the concerns that exist across the industry about the performance of this machine category in terms of the decline in revenue. However, the Government is concerned about the potential impact on players of another uplift which would give it a comparable maximum stake to B3 gaming machines (but with a lower return to player ratio), which are not permitted in pubs due to the fact that they are less regulated environments, especially as no corresponding changes have been suggested by industry in terms of additional player protection measures. The Government is not therefore minded to take industry proposals forward.

Category D machines

- 3.23. While there is an economic case to support the affected sectors, Great Britain is the only jurisdiction internationally to permit gambling for under 18s (primarily in seaside arcades and on category D machines) and as such Government recognises the concern among some respondents to the call for evidence regarding the prospect of stake and/or prize increases on these types of machine. The call for evidence highlighted that although problem gambling rates among young people (12-15 years of age) are fairly static (at around 0.4%), there are areas of concern, primarily that there is an association between early gambling participation and problem gambling in adulthood.³⁵ Given concerns raised on the principle of stake and prize increases on products available to children, and the fact that the industry has not proposed any strengthening of its player protections, we are not therefore minded to take any of the industry's proposals forward.

Prize gaming

- 3.24. We are content that industry proposals to increase stake from £1 to £2 and prizes from £70 to £100 (£1,000 aggregate) on prize gaming are in keeping with the objective of this review and that these activities are low risk. We therefore propose to take these changes forward. However, while the current use of prize gaming does not pose significant risks, we will ask the Gambling Commission to alert us to any developments which would change this assessment.

³⁵ Keatley, David *Young People, Gambling and Gambling-Related Harm: Pathways into and out of danger* Gambleaware, (2017)

Q2. Do you agree with the government's proposals to maintain the status quo on category B1 gaming machines?

Q3. Do you agree with the government's proposals to maintain the status quo on category B3 gaming machines?

Q4. Do you agree with the government's proposals to maintain the status quo on category B3A gaming machines?

Q5. Do you agree with the government's proposals to maintain the status quo on category B4 gaming machines?

Q6. Do you agree with the government's proposals to maintain the status quo on category C gaming machines?

Q7. Do you agree with the government's proposals to maintain the status quo on all category D gaming machines?

Q8. Do you agree with the government's proposals to increase the stake and prize for prize gaming, in line with industry proposals?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

4. Gaming machine allocations

Overview of findings

- 4.1. The Government also requested evidence-based proposals on allocations of gaming machines permitted in all licensed premises under the Gambling Act 2005. Most proposals received were from the casino sector. This chapter outlines the proposals received from each sector, and the assessment which the Government has made following analysis of the submissions and evidence provided.

Casinos

Proposals from industry

- 4.2. The National Casino Forum (NCF) requested the following changes to machine allocations:

Table 2. Casino overview

Casino type	Numbers of casinos in operation	Current machine maximum	Current machine: table ratio	Industry request
Small (defined under the 2005 Act)	2 (one more in development)	80	2:1	3:1 ratio, no change to maximum
Large (defined in 2005 Act)	4	150	5:1	No change to ratio, increase maximum to 500
Converted 1968 Act licences	139	20 (category B)	No ratio	3:1 ratio, maximum 80 machines

- 4.3. The sector argued that current machine entitlements (as outlined in the table above) are restrictive by international standards. They said that customers often queue for machines at busy times, that terrestrial casinos are the most highly-regulated part of the gambling sector and that they have been leaders on player protection. NCF also argued that the 2:1 ratio in Small 2005 Act casinos makes the model financially unviable. Other responses from casino operators mirrored the NCF's submission, although one proposed an increase in the Large 2005 Act casino machine:table ratio to 8:1.
- 4.4. The industry estimated that the benefits of allowing an 80 machine cap with 3:1 ratio across Small and 1968 Act casinos would be: £100m

Gross Value Added (GVA) to UK economy; an extra 1,000 jobs, 75% outside London; increased casino revenue of £175m (from all activities, not just machines) and increased tax of £65m.

- 4.5. The NCF's submission also included the following requests:
- 4.5.1. Allow a new higher stakes machine for high-end (Mayfair) casinos, which they said cater for a 'high roller' international clientele. Mayfair casinos currently have few or no machines, as B1 stake and prize limits mean that such machines hold no interest for their customers. They suggested that the limits for this new machine could be a £50 stake and £100,000 prize.
 - 4.5.2. Allow the provision of dedicated tablets for customers to access their online accounts, not to count against machine allocation or to be subject to stake and prize limits.
- 4.6. Casinos are more highly regulated than other environments in that their numbers and locations are limited, in recognition of the levels of high stakes gambling they offer. However, they are permitted to serve alcohol and many are open 24 hours a day. The majority are no longer member-only venues.
- 4.7. There are currently around 3,000 machines in all casinos in total (compared to around 35,000 in betting shops, 63,000 in bingo premises and 76,000 in arcades). However, B1 gaming machines offer the highest prize limit, which is the reason that they were reserved for casinos.
- 4.8. According to the Ernst & Young report 'Stimulating Growth in the UK casino industry', which was commissioned by the industry, aligning the 1968 Act casino and small 2005 Act casinos with a 3:1 machine-to-table ratio and new overall cap of 80 machines would result in an estimated 2,175 more machines across the casino estate, an increase of just over 70%.
- 4.9. A recent study of tracked play on B1 machines³⁶ showed the majority of card holders visited infrequently and either won or lost small sums. However, a small (but not insignificant) proportion did show signs associated with harm, such as prolonged play and heavy losses. In 2014, 8% of play sessions studied resulted in a loss of more than £200 (3% more than £300), and 11% of sessions lasted three hours or more.
- 4.10. The report found that intensity of play, measured by machine player losses per minute, was significantly higher late at night and in the early hours compared with other times. Casinos (including B1 machines)

³⁶ <https://about.gambleaware.org/media/1368/tracked-play-revision-14-12-16.pdf>
<https://about.gambleaware.org/media/1164/evaluating-the-impact-of-the-uplift-of-stakes-and-prizes-on-b1-gaming-machines-in-casinos.pdf>

were busiest at 10 pm but they were as busy at 2am as at 6pm. A report by the same authors evaluating the effect of the increase in B1 stakes and prizes in 2014 found that “greater increases in B1 spending after uplift occurred in these relatively vulnerable groups: the young, those from deprived areas, late night players.”³⁷

Policy options for consultation

- 4.11. We welcome progress that the casino sector has made on player protection. This includes introducing the first national self-exclusion scheme, as well as developing capabilities for real-time machine play tracking, increasing slot supervision and commissioning and trialling work on algorithms to help identify risky play and intervene with customers. However, as with gaming machines across the industry, there is currently little direct evidence to show the impact that these measures have had on gambling-related harm. Further, B1 machines do not currently provide players with any facilities to help them manage their own gambling (for example, the opportunity for the customer to set limits which is available on B2 machines).
- 4.12. While the Gambling Commission confirms that allowances for machines in 1968 Act converted casinos in Great Britain are currently significantly lower than in the majority of comparable jurisdictions (for example other European countries), machine allocations are determined by what is right for this country rather than being brought automatically in line with international comparators.
- 4.13. The Government is therefore minded to maintain the status quo on casino machine allocations at present. We encourage casinos to work with the Gambling Commission on measures to enhance protections for machine players, as outlined in chapter 5. We would want to evaluate the impact of changes such as these before considering further changes to gaming machine regulation.
- 4.14. Regarding the proposals for a new higher stake machine for high-end casinos, these casinos are distinct in practice and in their clientele, but not in the nature of their premises licences. Little evidence was provided by the sector to support this proposal, and a key challenge would be how it could be implemented so that only high-end casinos could make the new category available for use. The Government therefore does not support this proposal.
- 4.15. We are not minded to allow casinos to provide dedicated tablets to access remote accounts, without these tablets counting against machine allocation or being subject to stake and prize limits. This would effectively circumvent the rules which govern the maximum

³⁷ Forest, McHale and Wardle, Evaluating the impact of the uplift of stakes and prizes on B1 gaming machines in casinos, GambleAware 2015

stake and prize levels on slots games offered on casino premises. There is nothing to stop customers accessing their remote accounts on their own devices if they wish, but we do not think it appropriate for a casino to offer tablets restricted to its own online offerings (presumably with incentives for customers to use those tablets rather than their own) where that would not count as a 'gaming machine'.

- 4.16. The Government also proposes to amend the Gambling Act 2005 (Gaming Tables in Casinos) (Definitions) Regulations 2009 to make clear that only tables for multi player live gaming, operated by a casino dealer³⁸, will qualify as a gaming table for the purposes of attracting a machine allowance in both Small and Large Casinos. Neither partially automated nor wholly automated gaming tables will count as "gaming tables" for these purposes. The Government's intention is to preserve the approach underpinning the Act that there should be a balanced mix on casino premises of real gaming tables (which are staffed by dealers or croupiers, monitored by inspectors and should be the core of a casino's product offer) and gaming machines and automated gaming equipment. A balanced offer means that customers can make a choice about whether to play on gaming tables, which are more social in nature, as opposed to gaming machines and other automated gaming equipment where there is less potential for human interaction.

Qualified alcohol licensed premises (public house)

Proposals from industry

- 4.17. The Greene King pub chain (though not the BBPA) submitted a proposal to raise the automatic entitlement to category C or D gaming machines from two to four in pubs. This proposal seems to be predicated on a combination of factors including the fact that LBOs are permitted four B2 gaming machines and, they argue, the lack of evidenced gambling problems related to category C machines.

Policy options for consultation

- 4.18. The Government notes that this proposal was only submitted by one pub chain and was not supported by the trade body representing the pub industry. It also notes that the Gambling Act 2005 allows pubs two category C or D gaming machines as of right and that Local Authorities (LAs) can permit an increase in this number if it deems appropriate. In addition, the Government notes that pubs are ambient gambling establishments and therefore lack both dedicated staff for the gambling function and more thorough social responsibility codes as there are with premises that are permitted more gaming machines. The Government is therefore minded to retain the status quo with local

³⁸ Those defined as "ordinary gaming tables" in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

authorities determining the appropriate number of machines in pubs beyond two.

Adult Gaming Centres (AGCs)

Proposals from industry

- 4.19. The arcade sector (represented by BACTA) have proposed the introduction of a new sub-category of gaming machine (sub-category B5). The proposal is for the B5 gaming machine to have a maximum stake of £10 and maximum prize of £125 with a proposed spin cycle of 30 seconds. BACTA argues that this new category of machine would allow operators to offer a more varied selection of products including, what they describe as “low stake roulette” or horse racing style products which, due to their popularity, would ensure the machine’s commercial viability. BACTA has estimated that each new machine would generate GGY of approximately £300 per week. In support of this proposal PwC has submitted that the manufacture of 10,000 of these gaming machines would generate an economic benefit of £165m and increased taxes of £25m. There would be a one off benefit from additional machines sales of £39m with £9m in VAT being generated. Accompanying the proposal to introduce a new sub-category of gaming machine (as set out above), BACTA propose introducing a 10% cap on the number of new B5 machines permitted in an AGC. A cap of 20% for category B3 machines currently exists; this proposal would therefore create a new 30% cap for category B gaming machines in AGCs.

Policy options for consultation

- 4.20. While government recognises the case for innovation in the sector, there are concerns around the introduction of a new category of machine on the high street in light of potential changes to B2 machines. We would want to evaluate the impact of other changes outlined in this document before considering further changes to gaming machine regulation. We would also seek to explore in more detail how this machine would function and any corresponding player protection measures. We are therefore not minded to agree to this request for a new category of higher stakes machine at this time.

Q9. Do you agree with the government’s proposals to maintain the status quo on allocations for casinos, arcades and pubs?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

Other gaming machine issues: Contactless payments on gaming machines**Proposals from industry**

- 4.21. Industry respondents from across all sectors, with the exception of bookmakers, submitted proposals for the introduction of contactless payments on gaming machines. Industry respondents cited the increase in contactless payments on the high street as the primary rationale for change, and argued that contactless payments on gaming machines are required to align with customer spending habits. It was also argued that this would increase gaming machine revenue and increase customer protection.

Policy options for consultation

- 4.22. Current legislation prevents the use of credit or debit cards as a means of direct payment for gaming machines and so the introduction of contactless payments would be a significant shift from the current regulatory framework. The rationale for not allowing the use of credit and debit cards as a means of direct payment to gaming machines is to give players more control over their play which may result from uninterrupted play generated by the use of cards as opposed to cash.³⁹ It remains the Government's view that the use of credit or debit cards as a direct form of payment to gaming machines would be a backward step in the protection of vulnerable players and it does not intend to progress this proposal.

Q10. Do you agree with the government's proposals to bar contactless payments as a direct form of payment to gaming machines?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

³⁹ <https://about.gambleaware.org/media/1362/pbhm-final-report-december-2016.pdf>

5. Social responsibility (SR) measures

- 5.1. As part of the call for evidence, Government requested responses on the effectiveness of social responsibility measures implemented by industry since 2013 and on the effects of gambling advertising.
- 5.2. This chapter sets out findings in four areas covering: player protection measures on gaming machines, online gambling, gambling advertising and the provision of research, education and treatment (RET) into, and in response to, gambling-related harm.

(i) Player protection measures on gaming machines

Overview of findings

- 5.3. A number of respondents to the call for evidence highlighted the perceived inadequacies of industry codes on social responsibility, specifically on gaming machines, primarily citing the lack of evidence of impact and effect of the measures. Where evaluation has taken place, primarily of the measures introduced by the bookmakers on B2 machines, it is not clear that the measures have been as effective as they could have been. While these evaluations proved inconclusive, we think there is value in trialling interventions and further refining and evaluating as appropriate.
- 5.4. The evaluation of the Association of British Bookmakers' (ABB) code on social responsibility,⁴⁰ of which the headline measure related to the introduction of voluntary time and money limit setting on B2 gaming machines, was published in May 2015 and concluded that only 0.5% of machine sessions in the first month after implementation included a voluntarily set threshold. They could not establish if this was because players did not want to use the function, or did not know about it. Due to the small proportion of sessions that included a voluntarily set threshold they were unable to draw any conclusions on the impact of this tool on players' behaviour. In addition, we welcome that the evaluation of the Player Awareness System (PAS) rolled out by ABB members on B2 machines was published in October 2016.⁴¹ It found that although this measure had potential, there was a considerable way to go before it could be considered successful.
- 5.5. We also recognise the effort and resource now being put into responsible gambling activities across the industry as a whole, but we believe there is a need for considerable improvement in methods of identifying harmful play on all gaming machines that enable high losses (B1, B2 and B3 gaming machines across all venues) and in the

⁴⁰ <https://about.gambleaware.org/media/1167/abb-early-impact-report-final-report.pdf>

⁴¹ https://about.gambleaware.org/media/1335/pas-evaluation_final-report_13102016.pdf

development of interventions to help players who might be suffering harm. The RGSB publication analysing industry progress echoes this, concluding that “*there is still much to do if the [National Responsible Gambling] Strategy is to make visible progress towards its objectives*”, with a need to increase the pace of delivery over the next 12 months.⁴²

- 5.6. One of the areas of agreement captured in the responses to the call for evidence on this issue is that the factors which influence the extent of harm to the player are wider than one product or a limited set of parameters, such as stakes and prizes, and include factors around the player, the environment and the product. It also highlighted risks associated not just with B2 gaming machines but with other category B gaming machines, specifically B3s.

Government position and options for consultation

- 5.7. As part of the work that industry is taking forward under the objectives of the National Responsible Gambling strategy,⁴³ we would therefore like to see industry trial and evaluate additional measures on B1, B2 and B3 gaming machines to improve player protections and to create parity across category B gaming machines, the majority of which are in highly accessible locations.
- 5.8. As previously referenced, we think there is particular merit in the introduction of the following measures across B1, B2 and B3 gaming machines based on stake and prize levels available and what we know about the way in which these machines are played, and would like to see industry work with the Gambling Commission on these issues. If there is insufficient progress in this space, we and the Gambling Commission will consider whether additional requirements need to be placed on affected licence holders:
- 5.8.1. Evidence suggests that voluntary time and spend limit setting is more effective than compulsory limits in terms of players keeping to the limits that they set, but that take up has been negligible in regards to existing measures on B2s. We would like to see further work done to encourage take up on existing measures (on B2 gaming machines) and work done on the introduction of these measures on B1 and B3 gaming machines. ‘Hard stops’ when limits are met, i.e. the ending of sessions, should also be considered as an accompanying measure;
- 5.8.2. Mandatory alerts when certain time and spend benchmarks are reached. Evidence suggests that these can be effective at improving player control but must be trialled and evaluated routinely to ensure effectiveness with players;
- 5.8.3. Prohibiting mixed play between B2 and B3 (only applies in practice to gaming machines in betting shops). Industry data

⁴² <http://www.rgsb.org.uk/PDF/Strategy-progress-report-2016-2017.pdf>

⁴³ <http://www.rgsb.org.uk/PDF/Strategy-2016-2019.pdf>

obtained by the Gambling Commission⁴⁴ as part of the call for evidence highlighted that session losses were high on sessions that contained mixed play. We think this measure will improve player control by making it more apparent to players when they are transitioning between different content on a single terminal; and

5.8.4. The utilisation of algorithms to identify problematic play on gaming machines. Although there is a long way to go to utilise the wealth of data available on gaming machines, we believe that this measure has the potential to be an effective intervention tool for those most at risk.

5.9. In addition, we have asked the Gambling Commission to advise us on the costs and benefits of introducing a form of tracked play on B1, B2 and B3 gaming machines. By tracked play, we do not necessarily mean that players would be required to provide verified personal information about themselves to their gambling operators. It could be a process by which players would register and be given some way of tracking their play (e.g. a number, a QR code) without providing this information. An approach like this would address player concerns about sharing personal data with gambling operators, but still provide data to better understand harm and the effectiveness of interventions. We note that there are significant potential benefits to this measure, including improved data about gaming machine play and therefore enhanced ability to target interventions, prevent underage and self-excluded players from gambling, and to evaluate the impact of interventions. We would also welcome views from industry and others about this measure, including potential costings and process and timing of implementation. Finally, we would like to see industry establish a process with the RGSB, GambleAware and the Gambling Commission in which data on how gaming machines are played is routinely shared, for the purposes of monitoring, evaluation and research.

Q.11 Do you support this package of measures to improve player protection measures on gaming machines?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

For industry:

Can you provide estimates about (a) the potential implementation and running costs of this package of measures; and (b) the potential delivery timescales for these changes?

⁴⁴<http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/New-data-to-inform-government-gambling-review.aspx>

(ii) Online gambling

Overview of findings

- 5.10. The call for evidence invited views on the effectiveness of social responsibility measures across the gambling industry. A number of respondents raised online gambling, with some respondents questioning in particular whether the controls in place to protect young and vulnerable people are effective.
- 5.11. The Government is committed to ensuring young and vulnerable people are protected from gambling-related harm - both online and offline. The recently published Internet Safety Strategy⁴⁵ looks at how we can ensure Britain is the safest place in the world to be online. The Strategy considers the responsibilities of companies to their users, the use of technical solutions to prevent online harms and government's role in supporting users. Alongside this, the Government is clear that the gambling industry must play its part in limiting online harms and protecting consumers.
- 5.12. Like other consumer products and services, gambling has seen a rapid growth in the online sector. With many of the online operators based offshore, the Government moved to tackle the risks this posed by bringing forward legislation in 2014. The Gambling (Licensing and Advertising) Act 2014 brought offshore online gambling websites within the regulatory remit of the British regulator, meaning that all online websites - no matter where they are based - offering gambling services to consumers in Britain require a licence from the Gambling Commission and must adhere to the Licence Conditions and Codes of Practice (LCCP)⁴⁶ attached to their operating licence. These include requirements to prevent underage gambling and money laundering, and to ensure that gambling is provided in a socially responsible way. Player protection requirements include ensuring that consumers have access to gambling management tools such as financial limits, reality checks, 'time-outs' and can request to self-exclude from a gambling website. The licence conditions are kept under review to ensure they reflect developments in the industry or emerging evidence on the most effective means of promoting socially responsible gambling.
- 5.13. Statistics published⁴⁷ by the Gambling Commission in May 2017 show that the online sector generated £4.5bn in GGY and the Commission estimates there are around seven million individual consumers gambling online in Britain. Just over half of this gross profit was generated by online casino and slot games. While land-based venues

⁴⁵ <https://www.gov.uk/government/consultations/internet-safety-strategy-green-paper>

⁴⁶ <http://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice.pdf>

⁴⁷ <http://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2017/Latest-industry-statistics-published.aspx>

account for 56% of the profits made by the commercial gambling market in Britain⁴⁸ the online sector has grown rapidly. Alongside this, there has been a corresponding growth in the volume of advertising for online gambling which is considered in the next section of this document.

- 5.14. The most recent statistics on gambling participation and problem gambling are taken from the report on Gambling Behaviour in Great Britain 2015⁴⁹, published in August 2017, which showed an increase in problem gambling rates and participation in online gambling - although the proportion deemed 'at-risk' had declined since the last survey in 2012. The results found that 10% of the adult population participated in online gambling or betting in the past year (7% in 2012). Among those who did participate in online gambling, problem gambling rates were 5.1% (4.2% in 2012). Looking at more specific products within the online market, the survey found that 4% of the adult population participated in online slots, casino or bingo (3% in 2012), while problem gambling prevalence rates among this group were 10.6% (6.3% in 2012). We are clear that developments in the online gambling sector need to be monitored closely and the Gambling Commission are keeping this under review.
- 5.15. While all online operators are subject to the same or equivalent regulatory requirements as land-based operators, there have been cases where operators' compliance with the rules has fallen short. This is being tackled, with the Gambling Commission recently introducing a revised enforcement strategy which includes higher penalties for those found to have breached the licence conditions. This will act as a strong deterrent to those who do not take their obligations seriously. In addition, a number of new requirements or initiatives which aim to improve standards across the online sector and enhance the social responsibility measures currently in place are in progress.

Figure 3. Tougher approach to enforcement

In July 2017, the Gambling Commission introduced a revised enforcement strategy which aims to put customers first and raise standards across the industry. The strategy includes higher penalties for those found to have breached the licence conditions, particularly where the Commission identifies systemic and repeated failings. The Commission have removed the previous bias in favour of settlement, putting all regulatory tools, including licence review, on an equal footing. This revised approach will act as a strong deterrent to those who do not take their obligations seriously.

In September 2017, the Commission imposed a record £7.8m penalty package against online operator 888 as a result of serious failings in its handling of vulnerable customers between September 2014 and September 2016. The Commission also ordered an independent audit of 888's processes relating to customer protection.

⁴⁸ Excludes National Lottery and large society lotteries.

⁴⁹ This report provides information about gambling behaviour in Great Britain using data combined from the Health Survey for England 2015, the Scottish Health Survey 2015 and the Wales Omnibus in 2015.

Free bets and sign-up offers

- 5.16. The Competition and Markets Authority (CMA) are currently investigating possible unfair terms and misleading practices around online gaming sign-up promotions and free bet promotions. In June 2017, the CMA opened enforcement cases against several online gambling firms suspected of breaking consumer protection law. In addition to this enforcement action, the CMA opened a new line of investigation into unfair terms and practices that could restrict customers' rights to withdraw money in their online gaming and betting accounts.
- 5.17. The CMA will provide an update on its investigation later this year. The Gambling Commission is working with the CMA to deliver sector-wide change in the areas of concern identified and to drive improved compliance with consumer protection law in the gambling sector. The Government fully expects the gambling industry to ensure terms and conditions are clear to consumers.
- 5.18. Bonus and promotional offers must only be made available in a socially responsible manner which is consistent with the licensing objectives. Such offers should never be marketed at young or vulnerable people, those who have self-excluded or those who have been identified as at risk of gambling-related harm. The Gambling Commission has the power to restrict the use of bonus and promotional offers which are designed to induce and encourage gambling. The Commission are monitoring the industry's approach to managing risks to the licence conditions arising from such offers and will consider whether regulatory intervention is required if operators fail to demonstrate they are sufficiently managing the risks. The Gambling Commission has the Government's full support in this work and we will continue to monitor this area to ensure these types of promotions are effectively regulated.

Customer interaction - identifying those at risk of gambling-related harm and making effective interventions

- 5.19. Unlike land-based gambling, all online gambling is account-based, which means operators know who their customers are, what they are spending their money on, and their patterns of gambling. This provides opportunities for operators to use customer data to identify and minimise gambling-related harm.
- 5.20. The Commission has found that standards and approaches to identifying those at risk of gambling-related harm and making effective interventions vary widely across the industry in their approach and delivery of customer interactions. While a number of operators are already developing and operating algorithm-based systems to identify

harmful behaviours and activity, very few operators were able to review and evaluate the effectiveness of their approach.

- 5.21. The industry is working collaboratively with GambleAware to identify good practice, pilot responsible gambling messaging and understand the information players need to help them manage their own gambling, as well as new approaches to staff training around social responsibility.
- 5.22. In August 2017 GambleAware published phase two of the research they commissioned to explore the potential usefulness of industry-held data and behavioural analytics to identify harmful or risky behaviour.⁵⁰ This research found the industry could accurately detect problem gamblers using data held by operators today, with a refined set of 22 predictive markers used to create a customer specific risk score. The markers could be used to inform tailored interventions based on different risk thresholds. This is a key area of opportunity for operators to strengthen their processes to identify and minimise gambling-related harm.
- 5.23. The next phase of GambleAware’s research into harm minimisation online is expected to conclude in 2019. The research aims to provide a best practice model that can be used by online gambling companies in their responsible gambling operations, including recommended interventions which have been evaluated for their effectiveness to reduce the risk of gambling-related harm.
- 5.24. The Government welcomes steps taken by some operators to incorporate behavioural analytics into their responsible gambling systems and the Commission’s work to raise standards across the sector.
- 5.25. The Commission intend to draw on the findings and outcomes of the GambleAware research to inform their ongoing approach to raising standards across the industry. The Commission have already concluded that, in order to raise standards in this important area of player protection, they will need to make changes to the Licence Conditions and Codes of Practice (LCCP) and to issue guidance to the industry setting out expectations around customer interaction. The Commission will continue to enhance their understanding of the most effective methods of identifying people at risk of gambling-related harm and intervening to assist them, ahead of a consultation on changes to the LCCP next year.

Enhanced player protection

- 5.26. All licensees are required to make information readily available to their customers on how to gamble responsibly and how to access

⁵⁰ <https://about.gambleaware.org/research/research-publications/>

information about, and help in respect of, problem gambling. There are a range of online gambling management tools which operators must provide including:

- measures to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend;
- timers or other forms of reminders or 'reality checks' where available;
- self-exclusion options; and
- information about the availability of further help or advice.

5.27. The Gambling Commission recently announced revised technical standards placing new requirements on online operators. From April 2018, operators must:

- ensure consumers are able to directly access 3 months' worth of account and gambling information, with a minimum period of 12 months available on request;
- Ensure customers can access information about their net deposits (defined as the running total of all deposits minus withdrawals for the lifetime of the account);
- set financial limits across their entire gambling account as well as individual games.

5.28. These improvements will ensure greater consistency and clarity across the sector and help consumers to manage their gambling.

Self-exclusion

5.29. Self-exclusion is an important harm minimisation tool for those people who recognise they have a problem with gambling. It is a requirement under the Gambling Commission's Licence Conditions and Codes of Practice that every operator must exclude individuals upon their request.

5.30. A new multi-operator self-exclusion scheme for online gambling, called GAMSTOP, is expected to be in place by the end of 2017. This will allow customers to self-exclude from all online gambling operators licensed by the Commission in a single step. The website will also set out other measures that are available to help people manage their gambling and will signpost specialist advice and support services.

5.31. We welcome this important development, that will significantly strengthen the self-exclusion arrangements available for online gamblers. We want to see the industry promote awareness of the scheme and do more to increase the take up of this, and other responsible gambling tools that are available.

Government position for consultation

- 5.32. While we welcome the positive industry led initiatives outlined above, we also note concerns expressed by the Gambling Commission that the pace of change by the industry to enhance the measures currently in place to protect consumers and promote responsible gambling has not been fast enough.
- 5.33. We expect the industry to accelerate its work wherever possible. In particular, we expect industry to:
- Ensure that implementation of the new multi-operator online self-exclusion scheme is completed at the earliest opportunity. Industry must promote awareness of the scheme, and other responsible gambling tools that are available, so that more customers who would benefit from them use them. And there should be an evaluation of this scheme (GAMSTOP) to ensure it is delivering the benefits we want to see for those who want to self-exclude;
 - Act on the findings of GambleAware’s existing research into harm minimisation in the online sector and trial a range of harm minimisation measures to strengthen their responsible gambling policies and processes;
 - Evaluate the action they take and share outcomes among industry, to raise standards across the sector;
 - Respond constructively to the interim findings from the next phase of GambleAware’s research into harm minimisation in the online sector, expected later this year, and adopt any findings which could strengthen existing responsible gambling policies;
 - Commit to adopt in full the final findings of the next phase of GambleAware’s research, expected to be completed in 2019.
- 5.34. We want to see a robust and consistent approach to harm minimisation and the prevention of gambling-related harm across the industry. We do not believe it is acceptable for operators to wait for the final outcome of the research to improve their processes when significant findings have already been published by GambleAware. While evidence of the most effective methods of identifying gambling-related harm and providing effective interventions continues to build, we consider that operators should look to adopt a more risk-based approach to their responsible gambling policies. The Government, and the Gambling Commission, will be paying close attention to industry progress in this area and will act accordingly.
- 5.35. The Government welcomes and supports the Gambling Commission’s work on driving up standards across the online industry to address the risk of harm. It is essential that the regulatory action taken by the Commission results in better approaches to harm minimisation.

- 5.36. The Gambling Commission has made clear it will consider restricting the use of bonus and promotional offers if operators cannot appropriately manage the risks presented by such offers. The Government is also concerned about the prevalence of free bet offers and fully supports the Commission's stance in this area. We will continue to monitor closely developments in this area and keep the need for further intervention under review.
- 5.37. While gambling on virtual games on gaming machines is subject to stakes and prize limits, there are currently no limits placed on virtual games offered by online operators. The Responsible Gambling Strategy Board (RGSB) provided advice to the Gambling Commission in relation to the Government's call for evidence and commented that the justification for this could only be that, when compared to operators of gambling premises based in Great Britain, online operators have better (account based) data to monitor play and intervene where harm is identified. We agree with the RGSB that it is vital that the online sector capitalises on the data it holds and demonstrates it is actively supporting its customers and helping to manage the risk of harm from gambling. We are clear that the risk of harm should not be affected by whether individuals are gambling online or in land-based venues.
- 5.38. As such, the Government acknowledges that the Commission has a broad range of powers to regulate and respond to changes in this sector. We want to see the Commission exercise the full breadth of the powers available to it to manage the risks arising from the rapid growth of the online sector. Wherever Gambling Commission identifies specific risks to the licensing objectives we expect it to take prompt action to ensure that young and vulnerable people are protected from gambling-related harm. If the Commission's powers prove insufficient to manage any new or emerging issue or risks, then the Government will consider putting in place additional legislative controls.
- 5.39. As part of the Gambling Commission's commitment to raise standards across all gambling sectors it is currently undertaking a wide-ranging review of the online sector. The Commission is examining data, market trends, consumer participation and action by online operators on social responsibility and crime. This will build the evidence base over the next year and inform any future action in relation to online gambling.

Q.12 Do you support this package of measures to improve player protection measures for the online sector?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

(iii) Gambling Advertising

- 5.40. The call for evidence asked if existing rules were appropriate to protect children and vulnerable people from the possible harmful impact of gambling advertising. Responses were received from broadcasters, the advertising industry and Advertising Standards Authority (ASA)/ Committees for Advertising Practice (CAP), sporting bodies, academics, charities and members of the public.

Overview of findings

- 5.41. Numbers of betting and gaming advertisements have increased substantially over the past decade. Before provisions in the Gambling Act 2005 came into force in September 2007, only bingo and lotteries could advertise on TV. The lifting of restrictions led to rapid growth; this also coincided with the dramatic increase in online gambling (as outlined in the section above), with most gambling advertising on television and in other media now being for online gambling sites.
- 5.42. In 2013 a major Ofcom study showed that gambling advertising impacts on TV - one person seeing one advert, the primary measure for advertising - rose more than fivefold for adults between 2005 and 2012, growing from 5.8bn impacts to 30.9bn. Children were seeing more than three times as many gambling adverts in 2012 than 2005. Since 2005 the use of social media, and advertising via social media sites, has also grown very significantly.
- 5.43. In 2014 the Government asked the Advertising Standards Authority (ASA), Committees for Advertising Practice (CAP/ BCAP), gambling industry and the Gambling Commission to carry out a four-strand review of gambling advertising. This concluded that there was no evidence that would justify further restrictions at that time. Industry took voluntary steps to tighten the Gambling Industry Code for Socially Responsible Advertising, including banning sign-up offers targeted solely at new customers before 9pm.⁵¹ This was announced in August 2015 and the new code came into effect in February 2016. The Gambling Commission also tightened its Licence Conditions and Codes of Practice (LCCP) to increase the sanctions available to it in cases of misleading advertising. In 2015 CAP/BCAP consulted on whether they should tighten their guidance on content but received very few responses.
- 5.44. The 2014 reviews took into account a major research survey by Dr Per Binde, Associate Professor of Anthropology at Gothenburg University, published by the Responsible Gambling Trust (now GambleAware). This concludes that advertising's impact on problem gambling

⁵¹<http://igrg.org.uk/wp/wp-content/uploads/2015/12/Gambling-Industry-Code-for-Socially-Responsible-Advertising-Final-2nd-Edition-August-2015.pdf>

prevalence is 'likely to be neither negligible nor considerable, but rather relatively small'. It is one of many environmental factors which contribute to prevalence (the total effect of the environment may be substantial). It identified that further research still needed to be done, including on the impact of different types of message.

- 5.45. Problem gambling has remained statistically stable despite the rise in advertising, although gambling-related harm is harder to measure. Children's participation in gambling and their levels of problem gambling have declined since 2007.
- 5.46. CAP/ BCAP rules, as well as the industry voluntary code, already restrict the content of gambling advertising and where it can be shown. Adherence to these rules is also reflected in the Gambling Commission's Licence Conditions and Code of Practice (LCCP).

Figure 4. Existing restrictions on advertising (CAP/ BCAP rules)

Broadcast gambling adverts may not be placed in or around programmes aimed at under-18s or likely to appeal particularly to them (the prohibition is below 16 in the case of lotteries and pools).

Advertisements for gambling must not:

- Portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm
- Exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young people or other vulnerable people
- Suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression
- Suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security
- Portray gambling as indispensable or as taking priority in life; for example over family, friends or professional or educational commitments
- Suggest that gambling can enhance personal qualities, for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration
- Suggest peer pressure to gamble nor disparage abstention
- Link gambling to seduction, sexual success or enhanced attractiveness
- Portray gambling in a context of toughness or link it to resilience or recklessness
- Suggest gambling is a rite of passage
- Suggest that solitary gambling is preferable to social gambling
- Be of particular appeal to children or young people, especially by reflecting or being associated with youth culture
- Feature anyone gambling or playing a significant role in the ad if they are under or appear to be under 25 years old. No-one may behave in an adolescent, juvenile or loutish way
- Exploit cultural beliefs or traditions about gambling or luck
- Condone or encourage criminal or anti-social behaviour
- Condone or feature gambling in a working environment (with an exception for licensed gambling premises)

Under the **voluntary industry code**, the only forms of gambling advertising permitted before 9pm on TV are for bingo, lotteries and sports betting (only around sporting events). Free sign up offers targeted at new customers are banned before 9pm and the website address for GambleAware must remain on the screen for at least 10% of an advert's length. There are other stipulations for online, print and radio advertising. All television and print adverts must carry an 18+ or 'no under 18s' message, except for lotteries, where the equivalent age is 16.

- 5.47. Content rules apply to all media, including online advertising. Children are not allowed to participate in most forms of gambling and it is an offence under the Gambling Act to invite a child to gamble.
- 5.48. Between January and September 2017, 631 complaints about gambling advertising were received, resulting in 500 discrete ASA cases. 34 of these were investigated formally and 25 were upheld or upheld in part. A further 42 cases were resolved with advertisers informally by their agreement to change or withdraw an advertisement. Compared with the average quarter in the preceding 12 months, Q3 2017 saw a 20% decrease in complaints about gambling advertisements.
- 5.49. The majority of complaints received by ASA relate to misleading free bet and bonus offers rather than breach of the codes regarding protection of vulnerable people. All television adverts must be pre-cleared by Clearcast, and all radio adverts by RadioCentre, which helps ensure compliance.

Call for evidence responses

- 5.50. Responses to the call for evidence focused mainly on television adverts but several pointed out that advertising is moving increasingly online. Of the public responses, 145 included comments on advertising and the campaigning organisation 38 Degrees submitted a 100,000 signature petition calling for action on advertising as well as B2 gaming machines (FOBTs).

Volume and scheduling of advertising

- 5.51. Many of the 145 public responses argued that there is too much gambling advertising on TV, citing the devastating effects of problem gambling and calling for advertising to be banned or heavily restricted because it promotes or 'normalises' gambling. This included, but was not limited to, concern about children seeing adverts during the day.
- 5.52. Responses from academics pointed out that many children watch television after the watershed, especially from the age of 11. On advertising in general, they argued for a need to focus on the impact on vulnerable people, not the general population. A mental health campaign group suggested a ban on broadcast adverts between 12am and 6am, to protect the mentally ill and those impaired by drink or drugs. It also said that a tool to block online gambling sites and advertising should be made available to vulnerable people.
- 5.53. Broadcasters, the ASA/CAP, the Advertising Association and sporting bodies cited the conclusion of Per Binde that the impact of advertising on problem gambling is small, the lack of any rise in problem gambling

to correspond with the increase in advertising since 2007, and the conclusion of the reviews into gambling advertising in 2014. They pointed out that investment in sport and sports coverage, in particular free-to-air coverage, depends heavily on gambling advertising.

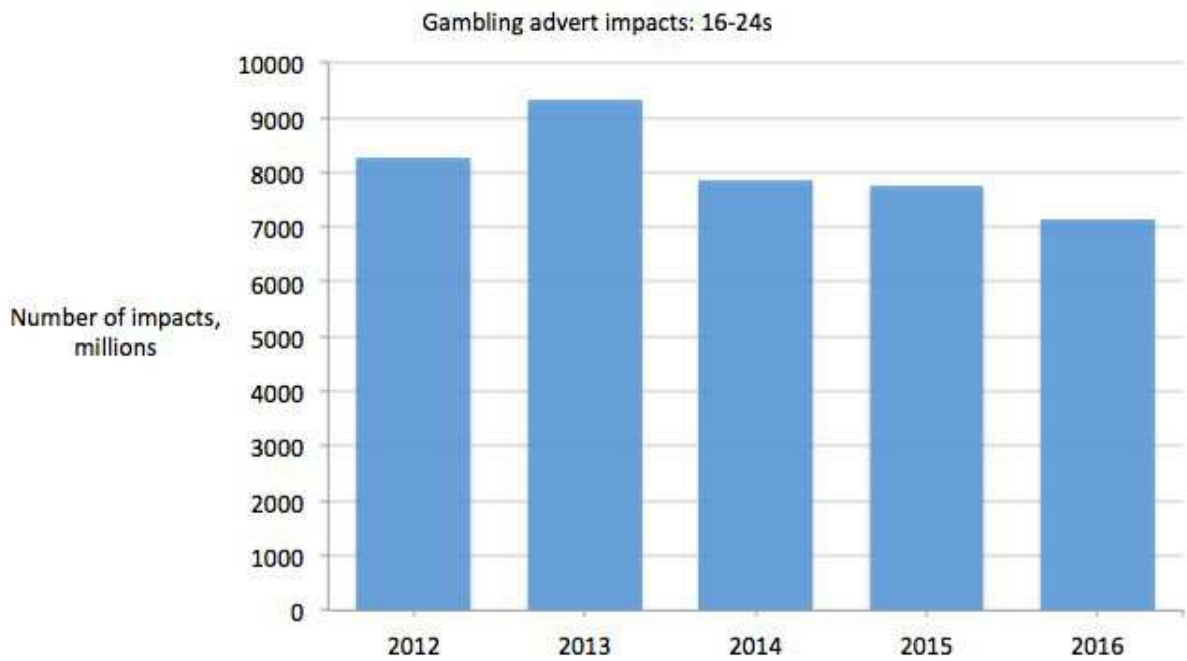
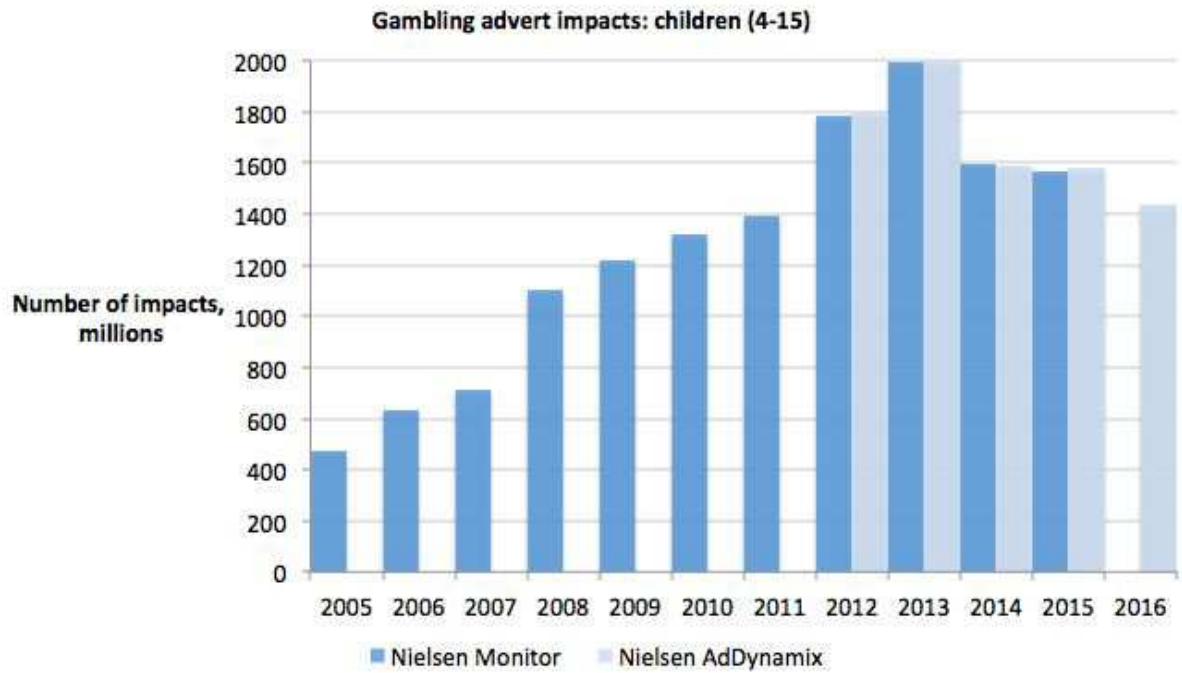
- 5.54. Broadcasters provided figures for gambling advertising impacts since Ofcom's research in 2012. These show that the number of adverts seen by children and young people aged 16-24 continued to rise until 2013, and has declined since. In 2016 children aged 4-15 saw 25% fewer gambling adverts than they did in 2012, and children aged 10-15 saw 28% fewer. This is in line with Ofcom research showing children spending more time online.⁵² The number of adverts seen by adults has remained stable with a small decline from the peak in 2013.

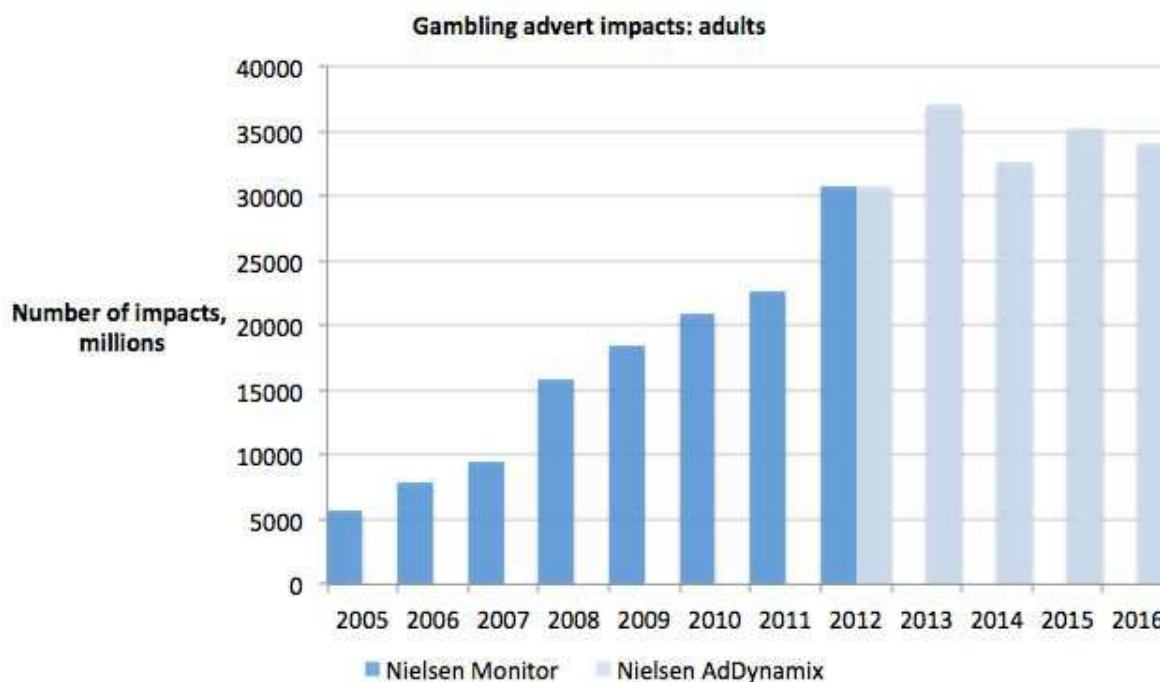
Tone and content of advertising

- 5.55. Relatively little was said in the responses about the tone and content of current gambling advertising. Several public responses argued that it gives a false impression that winning is likely and there is too little information about the risks. Academics pointed out that it is difficult to make an advert which appeals to adults without appealing to teenagers. Industry bodies offered to work with government if it was felt that changes to tone and content were required.
- 5.56. A campaign group suggested tougher and financial sanctions for breaches of the CAP and BCAP content codes, arguing that the ASA stopping an advert was insufficient sanction as the campaign has usually run its course anyway. Others suggested that the exemption in the voluntary industry code which allows daytime advertising of bingo is outdated, as online bingo sites also offer casino and betting.

⁵² Children and parents: media use and attitudes report, Ofcom, November 2016

Figure 5. Gambling advert impacts





Government position for consultation

- 5.57. For millions of people gambling is a leisure activity and the Gambling Act 2005 permits licensed gambling to be offered and advertised. The Act also makes clear that regulation of gambling is subject to the key licensing objectives: keeping gambling free of crime, ensuring it is fair and open, and protecting children and vulnerable people from harm or exploitation.
- 5.58. The Government's objective for this review is to ensure it continues to strike the right balance between socially responsible growth and the protection of consumers and wider communities.
- 5.59. The increase in both broadcast and online gambling advertising in the years following the 2005 Act has clearly been a noticeable social change and caused concern, especially regarding the exemptions to the voluntary industry code which allow daytime advertising around sports events on television. Scheduling restrictions in the advertising codes ensure that no adverts are included in or around programmes targeted at children.
- 5.60. In considering the proposals in this document, the Government has taken into account the current state of evidence linking gambling advertising to harm, the existing regulatory environment and the protections that are in place, and whether there is a need for further action to protect vulnerable people.
- 5.61. Regarding the link between gambling advertising and harm, the evidence base has not changed significantly since the survey of

evidence by Per Binde which was published by GambleAware in 2014. As outlined above, this found that the impact of advertising on problem gambling was likely to be rather small, as one factor among many which make up the environment.

- 5.62. The study found that the prevalence of advertising did not appear to be linked with the prevalence of problem gambling, with some countries with little gambling advertising having high problem gambling rates and others with average or low prevalence and relatively heavy advertising. In the UK, problem gambling has remained relatively stable below 1% of the adult population, despite a very significant rise in advertising. However, the survey did identify the need for further research, in particular on the effect of different messages on vulnerable groups, including children and those with an existing gambling problem. This has been commissioned by GambleAware (see below).
- 5.63. The Government is clear that on gambling advertising, as with other aspects of social responsibility, more should be done by operators and others who benefit from gambling to minimise the risks to vulnerable people.
- 5.64. The following section outlines a package of measures and initiatives by regulators, including the Gambling Commission and ASA/CAP, by broadcasters and the gambling industry and by GambleAware. These are intended to address concerns about gambling advertising on a number of levels; by addressing the tone and content of adverts to strengthen protections further, by providing counterbalancing messages to raise awareness of risks associated with gambling and by making sure the Gambling Commission has the right sanctions available to ensure that operators comply with the advertising codes.

Regulators

- 5.65. Advertising in general in the UK is currently regulated through a combination of self-regulation and regulation by Ofcom (the self/co-regulatory system). This system works well and the Government continues to support it. Gambling advertising (like that for other sensitive products such as alcohol) clearly requires particular protections.

ASA/ CAP guidance

- 5.66. Since the last gambling advertising review in 2014, CAP has continued to monitor the protections provided by the UK Advertising Codes and the ASA continues to enforce them.
- 5.67. As shown in Figure 4, the codes require gambling operators to behave responsibly and protect the vulnerable. Adverts must not be targeted

through their placement or content at under-18s. For example, gambling adverts may not appear in children's media and appeals to youth culture or use of individuals (sportspeople or even characters) who are under 25 are prohibited. The codes also prohibit approaches that are irresponsible or might cause harm to people at risk of problem gambling. For example, adverts that play on people's financial worries or that condone specific problem gambling behaviours are prohibited.

- 5.68. CAP has published additional guidance to support compliance with the rules. This gives advertisers more clarity on what the ASA is likely to consider unacceptable when it enforces against specific advertisements.
- 5.69. Following the recent publication of guidance on the use of social media marketing and guidance on targeting advertising appropriately to avoid significant child audiences, CAP is also working on dedicated guidance around gambling promotions and the use of affiliates by operators. These will be published by the end of 2017.
- 5.70. On a wider level, CAP has committed to produce new guidance to protect those at risk of problem gambling. The work will look at, among other things, 'urgent calls to action', where offers are presented in a manner and context that limits the time people have to decide whether to participate. There is some evidence to suggest that such adverts could encourage impulsive behaviour and therefore risk exploiting problem gamblers in particular.
- 5.71. Problems with impulse control are known to play an important role in problem gambling. Social responsibility measures across sectors often focus on encouraging players to take a break from gambling and ensure gambling is mindful rather than impulsive or automatic. The rise of online gambling means a greatly increased availability of instant opportunities to gamble, at all times of day and without in-person interaction with providers. In this context advertising needs to be especially responsible.
- 5.72. CAP's guidance will draw on insights from ASA enforcement work and new research and statistics published this year on problem gambling, as well as from our call for evidence. Once it is published, the ASA will use it to interpret the Codes and begin to enforce against individual advertisements. At the same time, Clearcast and RadioCentre, which pre-clear adverts, will begin to apply the guidance in their work.
- 5.73. The new problem gambling-related guidance is likely to be published early in the new year. CAP will then carry out a similar exercise, to produce another piece of gambling advertising guidance focused on protection of children and young people. That is expected to be

concluded in mid to late 2018. This new dedicated suite of guidance will help reinforce the protections provided by the Advertising Codes.

Gambling Commission

- 5.74. The Gambling Commission will consult on making compliance with the CAP/BCAP advertising codes a social responsibility code requirement of its Licence Conditions and Codes of Practice (LCCP), which means that breaches could be subject to the full range of the Commission's regulatory powers. This is already the case for the rules relating to misleading marketing practices.
- 5.75. As mentioned in the preceding section on online gambling, the Commission is also supporting the Competition and Markets Authority investigation to examine possible unfair terms and misleading practices around online gaming sign-up promotions and free bet promotions.
- 5.76. The Commission published an advice note earlier this year on ensuring direct marketing is not sent to those who have self-excluded from gambling. It has also been working closely with the ASA to address the issue of irresponsible advertorials. These include advertising which purports to be news and often seriously breaches the content restrictions in the advertising codes. The ASA ruled against several operators this year following publication of these stories by rogue affiliates. A condition in the LCCP holds licensed operators responsible for the actions and behaviours of their affiliates.

Online advertising, targeting and social media

- 5.77. Online advertising uses a number of techniques to work out who is likely to be interested in a product. This includes using information on recent browsing on a particular device (Online Behavioural Advertising), as well as advertising on social media sites.
- 5.78. This type of marketing is also governed by the CAP codes and must be responsible. For example, Appendix 3 on Online Behavioural Advertising requires that targeted advertisements are clearly labelled and that users can easily opt out. Operators and affiliates must comply with the requirements of the Privacy and Electronic Communications Regulations and the Data Protection Act, and the Information Commissioner's Office may take enforcement action if there is evidence of a breach. The ASA also has the power to take action if it receives evidence of irresponsible targeting.
- 5.79. However, because advertising is linked to interests, a regular gambler who may now wish to limit or stop their gambling will tend to continue seeing adverts for a time. Being aware of how to use settings to opt out can help to reduce this.

- 5.80. The Gambling Commission will encourage social media companies, with GambleAware support, to develop user-friendly guides on how a person wishing to limit their exposure to gambling advertising can do so by using settings and preferences within the platforms. This will help those wishing to control or stop their gambling. GambleAware is also commissioning an evaluation of the effectiveness of software which blocks gambling-related content.
- 5.81. As set out earlier, a new online multi-operator self-exclusion scheme known as GAMSTOP is due to be in place by the end of this year, allowing consumers to self-exclude from all online gambling operators licensed by the Commission in a single step. This will also include removing them from all marketing databases.
- 5.82. The Industry Group for Responsible Gambling (IGRG) has additionally strengthened the Industry Code on responsible gambling advertising to require operators to age-gate gambling content and gambling channels on social media. This will require them to use the tools provided by social media platforms to ensure their content is inaccessible to under-18s. This will reinforce the CAP guidance published this spring on targeting advertising away from children.
- 5.83. Through the Digital Charter the Government is looking to create a framework for how businesses, individuals and wider society should act online. This will include how big tech companies can play their part in tackling emerging challenges, such as online harms. We will look to examine the full range of possible solutions, including working with industry and regulators where appropriate.

Responsible gambling advertising campaign

- 5.84. GambleAware, broadcasters and gambling industry groups have drawn up proposals for a major responsible gambling advertising campaign, to run for two years with a budget of £5-7 million in each year. This will include television adverts, including around live sport, as well as radio, cinema, print and online. The scale is equivalent to or larger than the scale of a major Government public awareness campaign. The aim will be to raise public awareness of risks associated with gambling, as well as signposting to further advice and support where necessary.
- 5.85. Proposals for the campaign involve new funding from online gambling operators, with airspace and digital media provided by broadcasters. The bodies which are members of the responsible gambling group, Senet, will continue to fund its existing messaging and responsible gambling advertising work but bring this in line with the wider campaign. We would encourage others who benefit from gambling

advertising, including social media platforms and sports bodies, to look at how they can contribute to raising awareness of the potential risks.

- 5.86. GambleAware will lead the campaign, ensuring the content is independently approved and meets the campaign objectives. It intends to set up a Campaign Board and Delivery Unit, appointing an independent chair of the Board and approving all campaign content.
- 5.87. The Government welcomes the initiative by broadcasters and the gambling industry to fund and work with GambleAware to deliver a major responsible gambling advertising campaign.

Strengthening evidence base

- 5.88. New research on the effects of marketing and advertising on children, young people and vulnerable groups has been commissioned by GambleAware after being identified as a priority in the Responsible Gambling Strategy Board's research strategy.
- 5.89. The overall objectives for this project are to:
- Explore whether gambling marketing and advertising influences children and young people's attitudes towards gambling, in what ways and the impact of this;
 - Examine the tone and content of gambling marketing and advertising across all media, including social media affiliates, and explore the potential impact of this on children, young people, and vulnerable people; and
 - Identify specific themes and features of gambling advertising that children, young people and vulnerable groups are particularly susceptible to.
- 5.90. The findings of this research will help inform the development of guidance and protections going forward.
- 5.91. The ASA and BCAP, with support from Ofcom, are currently developing their approach to monitoring television advertising for several types of products including gambling. This will enable the regulators to check up-to-date information about how much gambling advertising is broadcast, and who is seeing it, with a particular focus on children.

Q.13 Do you support this package of measures to address concerns about gambling advertising?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

(iv) Research, Education and Treatment (RET)

Overview of findings

- 5.92. In order to ensure appropriate and effective player protection systems and to minimise the risk of harm from gambling we want to see industry support for relevant research to build the evidence base, action to raise awareness of the risks and where to find help and support, and support services to those at risk of or experiencing harm. If this voluntary system fails to deliver on these issues, the Government will consider alternative options, including the introduction of a mandatory levy.

The current voluntary system

- 5.93. Currently, industry are required by the Gambling Commission to make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling. The vast majority of operators donate to GambleAware (formerly the Responsible Gambling Trust) who recommend a voluntary donation of 0.1% of an operator's GGY. In 2016/17, GambleAware raised over £8m from industry, which was then allocated to research, education and treatment services for gambling-related harm, guided by the National Responsible Gambling Strategy published by the Responsible Gambling Strategy Board (RGSB).⁵³ We welcome progress made recently in this space including:

- The publication of a new National Responsible Gambling Strategy by the Responsible Gambling Strategy Board (RGSB) in April 2016 on which all stakeholders were consulted and now work from to deliver responsible gambling initiatives, including annual progress reports on the delivery of its objectives;
- A complementary research strategy, also published by the RGSB, setting out research priorities until 2019;
- The publication of a refreshed 5 year strategy from GambleAware which aims to treble the number of people who receive treatment in that time and increase its funding target to £10m per year. This revised fundraising target was endorsed by the RGSB as an appropriate sum to meet the current objectives set out in GambleAware's 5 year strategy, but came with the caveat that requirements around, for example treatment, could increase;⁵⁴ and
- GambleAware now has an independent chair and a much greater proportion of non-industry members on its board. In

⁵³ This arrangement between the Gambling Commission, RGSB and GambleAware is referred to as the 'Tripartite system'.

⁵⁴ RGSB's current assessment of the funding required by GambleAware to deliver its part in the National Responsible Gambling Strategy equates to £9.3m in 17/18 and £9.5m in 18/19

addition, it has made other governance changes around how it commissions research, and how it manages contracts for treatment to address any concerns of industry influence.

- 5.94. While progress has been made, this system must remain fit for purpose. We therefore want the three bodies who make up the tripartite system, alongside industry, to work together to continue to build on and improve these arrangements. In addition, we would welcome views, particularly from those currently in or who have received treatment under this system, experts in the field and industry, on how the delivery of RET can be improved in order to achieve its objective of reducing gambling-related harm.

Research

- 5.95. Research to improve our understanding of gambling-related harm is crucial to the success of the National Responsible Gambling Strategy as well as guiding policy and regulation on gambling matters. We therefore welcome the RGSB's publication in May 2017 of a research programme which sets out the priorities for research to be commissioned in the period from April 2017 to March 2019.⁵⁵ We support the aim to fill current evidence gaps, particularly around whether there exists a treatment gap between demand and supply, and encourage a wide range of academics, research agencies, industry and others to help deliver the work.
- 5.96. At the national level the Department of Health, working with Public Health England, are considering what scope there is for commissioning further research to better understand the impacts of gambling-related harm on health. We will work closely with them to develop this strand of work.

Education/Prevention

- 5.97. We welcome and support work that GambleAware are taking forward in this space. On prevention/education, this includes:
- Training frontline staff in GP surgeries, Citizen Advice Bureaus (CABs), housing offices and community nurses to help them identify gambling issues, provide interventions and signpost to further support. GambleAware have already funded some CABs to develop a model around this;
 - Making funding and resources available to local authorities and charities to support interventions and help tackle and prevent problem gambling;
 - Marketing material to promote sources of help and advice, for local authorities to distribute; and

⁵⁵ <http://www.rgsb.org.uk/PDF/Research-programme-2017-2019-May-2017.pdf>

- Leading a public information campaign (see gambling advertising).
- 5.98. We are encouraged that the Local Government Association (LGA) will be working with GambleAware to help identify interested local authorities (LAs) to ensure maximum reach for this programme of work, which could also include: access to frontline staff; consideration being given to the inclusion of gambling-related harm in LAs Joint Strategic Needs Assessments; and support in gathering data to help better understand the extent and nature of the problems facing local communities in relation to gambling-related harm.
- 5.99. In addition, the LGA will shortly be developing updated guidance on problem gambling for LAs, which will provide an opportunity to highlight the materials that GambleAware are developing.

Treatment

- 5.100. While problem gambling figures may under or overestimate the total population of people who could benefit from treatment, the latest data estimated that the problem gambling prevalence rate among adults in Great Britain was 0.8%, which equated to approximately 430,000 people.⁵⁶
- 5.101. Problem gamblers can already access treatment services in primary and secondary care including specialised mental health services. Local authority commissioned specialist drug and alcohol services may also be able to offer treatment where a service for broader addictions has been specified.
- 5.102. In addition, we know that problem gambling can cause physical and mental health problems, including anxiety disorders and depression. The Improving Access to Psychological Therapies (IAPT) programme began in 2008 and has transformed treatment of adult anxiety disorders and depression in England. Over 900,000 people now access IAPT services each year, and the Five Year Forward View for Mental Health is committed to expanding services further, alongside improving quality. Although problem gambling is not listed amongst the provisional diagnosis categories that IAPT treats, IAPT practitioners would be able to treat common mental health disorders such as depression and anxiety, which problem gamblers may present with.
- 5.103. Elsewhere, the Royal College of General Practitioners (RCGP) have developed an online gambling diagnosis and treatment training resource that is available free to all health professionals and Public Health England (PHE) promotes the RCGP online training resource among all health professionals. Going forward:

⁵⁶ <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

- PHE has previously developed guidance for local authorities on gambling and is exploring what the local needs are; and
 - The National Institute of Clinical Excellence (NICE), Department of Health and National Health Service England (NHSE) are considering whether NICE should produce treatment guidance on gambling.
- 5.104. Currently, the majority of dedicated treatment for gambling disorders is funded by GambleAware who fund the National Gambling Helpline and commissions a national network of treatment services which are locally accessible across Great Britain. While there is insufficient data to demonstrate the extent of a treatment gap, GambleAware aim to treble the number of those receiving treatment over the next 5 years. Currently, this is mostly delivered through GamCare which has networks across Great Britain and is funded by GambleAware. In addition, the National Problem Gambling Clinic, a specialist NHS clinic for problem gamblers, provides services for a proportion of those requiring treatment in England and Wales.

Government position for consultation

- 5.105. Going forward, we support GambleAware's ambition to open more clinics regionally, and to connect them to the existing GambleAware-funded network of treatment services; in particular, the initiative currently under development with Leeds City Council to establish a Northern NHS Gambling Clinic that would provide treatment to cities across the region. We encourage further engagement with relevant authorities in England, Scotland and Wales that have an interest in investing in the sort of initiative being developed in Leeds.
- 5.106. We also welcome the progress that has been made to bolster the current voluntary arrangements, including the work that has been done to cost the short term work of delivering the RGSB's National Responsible Gambling Strategy, providing GambleAware with targets for 2017/18 and 2018/19.
- 5.107. The industry must step up and fulfil their duties under these new targets. We would also like to see more work done to understand the longer term funding requirements for RET, particularly around treatment. For example, if treatment were to reach a materially greater proportion of problem gamblers, and if prevention efforts were increased to pre-empt gambling-related harm more generally, then the funding requirement could be much greater. The voluntary arrangements must be ready to scale up as and when required.
- 5.108. We will continue to work closely with the Gambling Commission, RGSB and GambleAware to monitor the progress made against objectives set

out in both the RGSB's and GambleAware's strategies and on the issues set out above. We want to see all gambling operators engaging fully with the objectives set out in these strategies as well as the published funding targets. If there is insufficient support for the fundraising targets set by the RGSB, or related concerns about the ability of the current system to deliver the RGSB's strategy, the Government will consider alternative options, including the introduction of a mandatory levy.

Q14. Do you agree that the Government should consider alternative options, including a mandatory levy, if industry does not provide adequate funding for RET?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

6. Chapter Six: Local Authorities

Overview of findings

- 6.1. The call for evidence included a catch all question asking respondents for views on any other issue that they deemed relevant. Under this question, the predominant issue that was raised came from the Local Government Association (LGA) and a number of Local Authorities (LAs), who proposed the introduction of cumulative impact assessments (CIAs) to give more powers to manage gambling at the local level.
- 6.2. We received responses from 29 local authorities and one submission from the Local Government Association (LGA) to the call for evidence. We did not receive submissions from relevant authorities in Scotland and Wales, but our assessment below applies to the whole of Great Britain. Submissions received called for:
- Further powers for LAs⁵⁷ to control gambling at the local level - suggestions focused primarily on the introduction of cumulative impact assessments (CIA) to allow LAs to reject applications for new gambling premises licences; and
 - To ensure effective use of a CIA, the introduction of additional licensing objectives in the Gambling Act 2005, which as well as requiring that gambling be fair and open, free of crime and disorder and protect the young and vulnerable, would also cover the ‘prevention of public nuisance’ and ‘improved public safety’.
- 6.3. In addition, a number of LAs acknowledged the effectiveness of the new planning laws that came into force in April 2015 in England which required a planning application for change of use of a building to a betting shop or the development of new betting shops.

Government position for consultation

- 6.4. The LGA, alongside a number of LAs, suggested that the introduction of local CIAs for gambling premises may be an effective tool in preventing further clustering, specifically of betting shops. We are keen to support LAs (in England and Wales) and Licensing Boards (in Scotland) in their management of gambling at a local level, but we believe that their objectives can be achieved using existing powers. Specifically, LAs can already set out the same assessment of the risk in a given location under their licensing statement of policy. The Gambling Commission advise that the implementation of this tool varies from one LA to another, but where it is used effectively and updated regularly, for example in Westminster Council, it can be an

⁵⁷ Including Licensing Authorities in Scotland

effective tool at rejecting licence applications or imposing conditions on new licences, as would be the case with the introduction of CIAs. We encourage LAs to continue to work closely with the Gambling Commission to ensure the effective deployment of the existing tools at their disposal.

- 6.5. In addition, where an increase in the number of betting shops is considered to be a local issue, having an up-to-date, relevant local plan policy in place will support the local planning authority in the determination of any applications for planning permission. The National Planning Policy Framework provides the framework within which local planning authorities and their communities can produce their own distinctive local plan which reflects the specific needs and priorities of their area.

Q.15 Do you agree with our assessment of the current powers available to local authorities?

If you have any evidence to support your position then please send to gamblingreviewconsultation2017@culture.gov.uk. When sending in evidence please provide your name and email address so that we may contact you. By evidence, we are referring to published research, data or supporting analysis.

Chapter Seven: Summary of questions

Q1. Do you agree that the maximum stake of £100 on B2 machines (FOBTs) should be reduced? If yes, what alternative maximum stake for B2 machines (FOBTs) do you support?

Q2. Do you agree with the government's proposals to maintain the status quo on category B1?

Q3. Do you agree with the government's proposals to maintain the status quo on category B3?

Q4. Do you agree with the government's proposals to maintain the status quo on category B3A?

Q5. Do you agree with the government's proposals to maintain the status quo on category B4?

Q6. Do you agree with the government's proposals to maintain the status quo on category C?

Q7. Do you agree with the government's proposals to maintain the status quo on category D?

Q8. Do you agree with the government's proposals to increase the stake and prize for prize gaming, in line with industry proposals?

Q9. Do you agree with the government's proposals to maintain the status quo on allocations for casinos, arcades and pubs?

Q10. Do you agree with the government's proposals to bar contactless payments as a direct form of payment to gaming machines?

Q.11 Do you support this package of measures to improve player protection measures on gaming machines?

Q.12 Do you support this package of measures to improve player protection measures for the online sector?

Q.13 Do you support this package of measures to address concerns about gambling advertising?

Q.14 Do you agree the Government should consider alternative options including a mandatory levy if industry does not provide adequate funding for RET?

Q.15 Do you agree with our assessment of the current powers available to local authorities

Q16. Are there any other relevant issues, supported by evidence, that you would like to raise as part of this consultation but that has not been covered by questions 1-15?

Appendix A: Gaming Machine Summary

Machine category	Maximum stake	Maximum prize	Allowed premises
B1	£5	£10,000 (£20,000 linked progressive jackpot on a premises basis)	Casinos
B2	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, Adult Gaming Centre and all of the above
B3A	£2	£500	Members' club, commercial club or Miners' welfare institute only
B4	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
C	£1	£100	Family Entertainment Centre, Qualifying alcohol licensed premises and all of the above.
D (money prize)	10p	£5	Travelling fairs, unlicensed (permit) Family Entertainment Centre and all of the above
D non-money prize (other than crane grab machine)	30p	£8	All of the above
D non-money prize (crane grab machine)	£1	£50	All of the above
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)	All of the above
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)	All of the above

Appendix B: List of respondents to the call for evidence

Industry/Trade Associations

ADP Gauselmann UK Ltd
 Advertising Standards Authority
 Aspers Group
 Association of British Bookmakers
 Association of Licensed Multiple Retailers
 At the Races
 Betfred
 Bingo Association
 British Amusement & Catering Trade Association
 British Association of Leisure Parks, Piers and Attractions
 British Beer and Pub Association
 British Horseracing Authority
 Castle Leisure
 Commercial Broadcasters Association
 Electrocoin
 English Football League
 Gala Leisure
 Gambling Business Group
 Genting Casinos UK Ltd
 Global Gaming Ventures (Developments) Limited
 Greene King
 Industry Group for Responsible Gambling
 Inspired Gaming
 ITV
 Hippodrome Casino
 Ladbrokes-Coral
 Les Ambassadeurs Club Limited
 Marston's plc
 Mirage Leisure
 National Casino Forum
 NB Leisure Ltd
 Novomatic UK
 Opera House Casino
 Paddy Power Betfair
 People's Postcode Lottery
 Praesepe
 Rank Group plc
 Remote Gambling Association
 Satellite information Service
 Senet Group
 SG Gaming
 Shipley Leisure Ltd

Sky Betting and Gaming
 Sky UK
 Sport and Recreation Alliance
 Tombola
 Viacom
 William Hill

Local Authorities

Local Government Association
 Barking & Dagenham
 Bradford
 Ealing
 Enfield
 Greenwich
 Hackney
 Haringey
 Hounslow
 Islington
 Knowlsey
 Leeds
 Leicester
 Lewisham
 Medway
 Newcastle
 Newham
 North East Lincolnshire
 Peterborough
 Rochdale
 Sedgemoor
 Sheffield
 Sunderland
 Tower Hamlets
 Wandsworth
 Wolverhampton

Parliamentarians

All Party Parliamentary Group on Fixed Odds Betting Terminals
 Patrick Grady MP
 Fabian Hamilton MP
 Margaret Hodge MP

Faith Groups

Baptist Union
 Christian Centre for Gambling Rehabilitation
 Christian Institute

Church of England
 Church of Scotland
 Methodist Church
 Quaker Action on Alcohol and Drugs
 Salvation Army
 United Reformed Church

Charities

Christian Action, Research and Education
 GambleAware

Members of the public

We received 167 individual responses from the general public. We also received a petition containing over 100,000 signatures from campaign group, 38 degrees, calling for government to '*Crackdown on addictive betting machines and adverts.*'

Interest Groups/Academics

Advertising Association
 Campaign for Fairer Gambling
 Gambling Reform and Society Perception
 Gamservice
 Institute of Economic Affairs
 Landman Economics
 Law Society of Scotland
 London Chinatown Chinese Association
 Money and Mental Health Policy Institute
 The Outcomes Group
 Rethink Gambling
 University of Birmingham/Gambling Watch UK, Professor Jim Orford
 University of Bristol, Dr Sean Cowlshaw
 University of London, City, Dr Margaret Carran
 University of London, Goldsmith, Professor Rebecca Cassidy
 University of London, Queen Mary, Dr Julia Hörnle

Consultation Questions and Draft Responses for Consideration

Q1: Do you agree that the maximum stake of £100 on B2 machines (FOBT's) should be reduced? If yes, what alternative maximum stake for B2 machines (FOBTs) do you support?

Yes.

Option 4 - Maximum stake reduced to £2 on all B2 content

Rationale - FOBT's are prevalent on our High Streets and town centres. They are accessible to large sections of the community and can become highly addictive having a detrimental impact on the well being of individuals and their families.

There are often high concentrations of betting shops in areas of deprivation and unemployment with members of those communities more likely to gamble on high stake machines compared to any other socio-economic group.

Currently B3, B3A and B4 machines have a maximum stake of £2 and maximum prizes of £500, £500 and £400 respectively.

Limiting the maximum stake of B2 machines to £2 would bring them in line with other category B machines.

Q2.Do you agree with the government's proposals to maintain the status quo on category B1?

Yes

Q3.Do you agree with the government's proposals to maintain the status quo on category B3?

Yes

Q4.Do you agree with the government's proposals to maintain the status quo on category B3A?

Yes

Q5.Do you agree with the government's proposals to maintain the status quo on category B4?

Yes

Q6.Do you agree with the government's proposals to maintain the status quo on category C?

Yes

Q7. Do you agree with the government's proposals to maintain the status quo on category D?

Yes

Q8. Do you agree with the government's proposals to increase the stake and prize for prize gaming, in line with industry proposals?

Yes

Rationale - Prize gaming stakes and prizes are relatively low in comparison to other types of gaming and have not changed since the introduction of the Gambling Act in 2007. This category of gaming facilitates games such as Bingo and prize gaming at family entertainment centres where participants do not tend to be problem gamblers. The proposed increase from £1 to £2 stake and from £70 to £100 prize is moderate and supported.

Q9. Do you agree with the government's proposals to maintain the status quo on allocations for casinos, arcades and pubs?

Yes

Rationale - The industry's recommendation to increase the allocation of gaming machines in arcades and pubs is noted. The Authority would not wish to see an increase in these allocations because of the potential lack of supervision by dedicated staff with the introduction of more gambling machines. Pubs are often frequented by families and the prevalence of gaming machines and lack of adequate supervision could result in children gaining access to machines.

Q10. Do you agree with the government's proposals to bar contactless payments as a direct form of payment to gaming machines?

Yes

Q.11 Do you support this package of measures to improve player protection measures on gaming machines?

Yes

Further controls relating to players self regulating by setting time and/or monetary limits are welcomed.

Q.12 Do you support this package of measures to improve player protection measures for the online sector?

Yes

The Authority does not regulate online gambling but any player protection measures are generally welcomed.

Q.13 Do you support this package of measures to address concerns about gambling advertising?

Yes

The Authority does not regulate gambling advertising but supports the initiatives put forward by GambleAware.

Q.14 Do you agree the Government should consider alternative options including a mandatory levy if industry does not provide adequate funding for RET?

Yes

The Authority is not involved with the current voluntary system for Research, Education and Treatment. This is enforced by the Gambling Commission. We therefore have no comment to make on this matter.

Q.15 Do you agree with our assessment of the current powers available to local authorities

Yes

Q16. Are there any other relevant issues, supported by evidence, that you would like to raise as part of this consultation but that has not been covered by questions 1-15?

No

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LEGISLATIVE & INDUSTRY UPDATE

Committee name	Licensing Committee
Officer reporting	Beejal Soni - Legal Services
Papers with report	None
Ward	All

HEADLINES

This report provides a caselaw update, the Gambling Commission's Strategy for 2018-2021 and information on action by the Gambling Commission to address on-line advertising which targets children.

RECOMMENDATIONS:

That the Licensing Committee note the report.

SUPPORTING INFORMATION

1. Caselaw Update:

- a. *Scotch Whisky Association and others v The Lord Advocate and another (Scotland)*[2017] UKSC76

The Alcohol (Minimum Pricing) (Scotland) Act was passed in May 2012 by the Scottish Parliament. It prohibits the sale of alcohol below a minimum price, calculated on the basis of the drink's alcoholic content. The Scottish ministers proposed a minimum pricing unit of 50p, subject to consultation and an up-to-date business and regulatory impact assessment.

The Scotch Whisky Association, along with other European wine and spirits trade bodies, began a legal challenge against the minimum alcohol pricing in 2012. Their arguments were based on:

- The lawfulness of the legislation; and
- Whether or not minimum pricing was disproportionate under European Union Law. Scottish Ministers agreed not to bring the legislation into force or make any order setting a minimum price until determination of the legal challenge.

The Outer House of the Court of Session rejected the arguments in May 2013. However, the Inner House, which is Scotland's highest civil court, referred the case to the Court of Justice of the European Union (referred to as "CJEU") on appeal after finding that it "raised questions of European law". The CJEU ruled in 2015 that the policy was incompatible with EU law "if less restrictive tax measures can be introduced", but left this final test to the Scottish courts.

The Inner House backed the planned policy in its ruling of October 2016. The Scotch Whisky Association appealed the matter to the Supreme Court. By this stage, all parties had agreed that minimum alcohol pricing would affect the market and EU trade in alcohol. The issue for the Supreme Court was whether there was justification for the market interference or whether less restrictive measures such as excise or tax could provide the same results.

The Supreme Court said that it was "ready to accept" that a general increase in excise duties or VAT across narrowly defined bands of alcoholic strength was permitted by EU law as an alternative. However, tax increases would not be as effective at targeting the health hazards of cheap alcohol in particular, as intended by the policy.

"Taxation would impose an unintended and unacceptable burden on sectors of the drinking population, whose drinking habits and health do not represent a significant problem in societal terms in the same way as the drinking habits and health of in particular the deprived, whose use and abuse of cheap alcohol the Scottish parliament and government wish to target," said Lord Mance, giving the judgment of the court. *"In contrast, minimum alcohol pricing will much better target the really problematic drinking to which the government's objectives were always directed."*

The Judge also pointed out that minimum alcohol pricing was easier to understand and simpler to enforce.

The Judge cited new research by the University of Sheffield, published in April 2016, which indicated that tax increases by as much as 36% in some cases would be needed to deliver the same beneficial impacts as a 50p minimum alcohol pricing.

"As to the general advantages and values of minimum pricing for health in relation to the benefits of free EU trade and competition, the Scottish Parliament and Government have as a matter of general policy decided to put very great weight on combating alcohol-related mortality and hospitalisation and other forms of alcohol-related harm. That was a judgement which was for them to make, and their right to make it militates strongly against intrusive review by a domestic court," he said.

The Court acknowledged that the minimum pricing policy was an "experimental" one. However, this was catered for by the review and 'sunset' clause provisions which confirmed that the legislation would be withdrawn 6 years after the Act came into force unless Holyrood passed a renewal bill supporting its continuation.

It has since been confirmed that minimum pricing for alcohol will be introduced in Scotland on 01 May 2018.

The full text of the decision can be accessed at:
<http://www.bailii.org/uk/cases/UKSC/2017/76.html>

2. Industry Update:

- a. Gambling Commission Strategy: 2018-2021
- b. Measures to Tackle Gambling Advertising that Appeals to Children

a. Gambling Commission Strategy 2018-2021

The Gambling Commission has published its new strategy which sets out the Gambling Commission's focus and commitment in five priority areas: protecting the interests of consumers; preventing harm to consumers and the public; raising standards in the gambling market; optimising returns to good causes from lotteries; and improving the way the Commission regulates gambling activity.

The Gambling Commission outlined a range of actions it said it would take in pursuit of the five priorities, including measures to address the current "imbalance" in the relationship between gambling operators and consumers. It said it would seek to give consumers "more power and control" over the way they can manage their gambling, and would look to "make sure that operators provide easy access to reliable information, tools and services which consumers can use to inform and control their gambling at every stage of the customer journey".

"We want consumers to have confidence that when they gamble, they are doing so with a business licensed by the Commission, which significantly reduces the risk that their gambling is connected to crime or rigged against them. We act against illegal operators because the level of potential harm to consumers and society is significant. But markets move quickly and new business models, products and opportunities emerge, as we have seen with e-sports and skins betting. We see it as our role to advise government and alert the public if we see risks with new and evolving gambling or gambling style products," it said.

The Commission said it expects gambling operators to work together to address problem gambling and that it would also *"regulate and take precautionary action where necessary to reduce gambling-related harm"*.

Operators that *"do not attempt to understand the risks of gambling or fail to put in place effective mitigations, are deliberately or negligently noncompliant and who do not take account of lessons learned will face penalties"*, it said.

"We will use the full range of our enforcement powers, and develop our use of sanctions, to ensure these are well targeted and provide credible deterrence," the Commission said.

The Gambling Commission Strategy: 2018-2021 can be accessed at:
<http://www.gamblingcommission.gov.uk/PDF/Strategy-2018-2021.pdf>

b. Measures to Tackle Gambling Advertising that Appeals to Children

The publication of the Gambling Commission Strategy was followed by publication of an updated Gambling Industry Code for Socially Responsible Advertising and correspondence to gaming operators regarding advertising that targets children.

In 2005 the Industry Code for Responsible Advertising introduced a 9pm television limit/watershed for all gambling product advertising except for that related to bingo and sports betting surrounding televised sports events. Subsequent changes included a prohibition on sponsoring operators' logos appearing on any children's merchandise. The latest changes include:

- A requirement to have socially responsible gambling messages at the end of all television and radio adverts.
- The removal from pre-watershed television advertising of sign-up offers that are targeted at new customers.
- A condition that pre-watershed television advertising cannot make reference to other gambling products that would not normally qualify for pre-9.00pm exemption.
- Improved prominence to be given to gambleaware.co.uk in all print and broadcast adverts.
- Reference to gambleaware.co.uk will now have to be included in all television programmes sponsorship undertaken by operators.
- A requirement that Gambling operators must now carry the required social responsibility and age requirement specifications on consumer-facing marketing content on their YouTube channels. Operators must also use the YouTube or Twitter age-screening function when marketing to consumers to prevent under-18s accessing inappropriate gambling marketing material on YouTube and Twitter.

The Code also reiterates that the Gambling Commission has "made it clear" that gambling operators will also be held responsible "for any marketing carried out on their behalf by affiliates".

Subsequently on 20th October 2017 the Gambling Commission, Advertising Standards Authority (ASA), the Committee of Advertising Practice, and the Remote Gambling Association issued a joint letter to gambling operators following reports in the media that they said "highlighted a number of freely accessible ads on gambling operator websites, which feature images that are likely to appeal particularly to under 18s".

The correspondence said that adverts featuring "particular colours, cartoon and comic book images, animals, child- and youth-orientated references and names of games such as 'Piggy Payout', 'Fluffy Favourites', 'Pirate Princess' and 'Jack and the Beanstalk' are likely, alone or in combination, to enhance appeal to under 18s".

The correspondence said that such adverts and images were "unacceptable". They raised particular concern about "freely accessible ads for play-for-free and play-for-money games", and said their warning also applied to "all graphics and images displayed on a website or in third party media".

"Gambling operators are required by the UK advertising codes and the conditions of their Gambling Commission licence to advertise responsibly with particular regard to the protection of Under 18s and others who are vulnerable to being harmed or exploited by gambling advertising," it said.

Operators were urged to apply caution in cases where they are unsure whether their adverts would appeal to children.

The Gambling Industry Code for Socially Responsible Advertising can be downloaded at:
<https://www.rga.eu.com/wp-content/uploads/Gambling-Industry-Code-for-Socially-Responsible-Advertising-3rd-Edition-October-2017.pdf>

The joint letter issued on 20th October 2017 can be viewed at:
<http://www.gamblingcommission.gov.uk/PDF/Ltr-from-ASA-CAP-CG-RGA-final.pdf>

Implications on related Council policies

None at this stage

How this report benefits Hillingdon residents

National regulation of the gambling industry will additionally protect gambling consumers who are residents of Hillingdon.

Financial Implications

None at this stage

Legal Implications

Legal comments have been incorporated within this report.

BACKGROUND PAPERS

None

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LICENSING COMMITTEE - FORWARD PLANNER 2017/18

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.

12 April 2018	Proposed Agenda / Reports	Lead	Timings
10am Committee Room 6	Presentation: UK Border Agency - new immigration act powers in licenced premises (provisional)	SW	Report deadline: 29 March Agenda Published: 4 April
	Policies <ul style="list-style-type: none"> ● Update on all relevant policies / timelines 	SW	
	Informatives: <ul style="list-style-type: none"> ● GAMSTOP Update (following implementation) ● Overview of regulatory delegations (scheme of delegations) - to note ● Summary report on officer delegated decisions (noting) ● Legislative and Industry Update 	SW	
	Business Review: <ul style="list-style-type: none"> ● Forward Planner ● Sub-Committee Minutes 	MB	

Possible future items

- Building up the evidence base for sub-committee decisions - to incorporate into public health items
- Update from Public Health, following actions from the January 2016 meeting.

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