

Discussion following Consultation

**Statement of Principles
for Licensing and Regulation**
December 2006

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1. Introduction

1.1 This document discusses the principles that the Gambling Commission (the Commission) will apply in exercising its functions under the Gambling Act 2005 (the Act). It sets out the draft principles as originally produced in the *Statement of Principles on Licensing and Regulation Consultation document*, the factors considered in updating this document and the amended drafting which now constitutes the Commission's formal Statement of Principles.

1.2 Section 23 (1) of the Gambling Act 2005 requires the Commission to prepare a statement ('the SoP') setting out the principles we will apply when exercising our functions under the Act. Section 23(4) of the Act requires the Commission to publish the Statement of Principles and any revision as soon as reasonably practicable. Before issuing the Statement of Principles or any revision the Commission must consult on them.

1.3 In October 2005 the Commission consulted on a draft Statement of Principles in order to meet the requirements set out under section 23(4) of the Act. The Commission received 80 responses, from a cross-section of those with an interest in the sector, including representatives of the gambling industry, local authorities, those with an interest in problem gambling, regulatory bodies, legal bodies and the police, faith groups and trade unions. A short summary of those responses was published in April 2006, and appropriate amendments have been made as a result. A further opportunity to comment on the draft principles was provided through the subsequent consultations on Licence Conditions and Codes of Practice (LCCP), Licensing, Compliance and Enforcement (LCE), and Financial Conditions on Gambling Operators and Personal Licence Holders (Financial Conditions). Responses to all of these consultations have informed our development of the Statement of Principles.

1.4 The Commission has waited until the above consultations were complete before finalising the Statement of Principles. Changes from the original version have been modest, with further text added to provide clarity in some instances and some revisions to the language or terminology used to bring it up to date. The Statement of Principles now published underpins all the work undertaken by the Commission. Operators and individuals applying for licences should be aware of these guiding principles.

1.5 This document is divided into four sections.

Section 1 introduces the paper.

Section 2 discusses Part 1 of the Statement of Principles which sets out the high-level principles and values that will govern the manner in which the Commission approaches the licensing and regulation of the gambling industry.

Section 3 discusses Part 2 of the Statement of Principles which covers the three licensing objectives established in section 1 of the Act as the basis for the Commission's regulation of the gambling industry.

Section 4 discusses Part 3 of the Statement of Principles and procedural issues relating to the provisions of the Act on which the Commission is required to comment. This has been expanded and re-ordered from the version in the SoP Consultation document in order to aid clarity.

1.6 Each sub-section is set out as follows:

- the text from the SoP Consultation document;
- our considerations on that text which is drawn from the responses received to the SoP consultation and to the LCE and LCCP consultations; and
- the changes to the SoP which appear in text boxes, with the changes in ***bold italics***.

1.7 The Commission will, whenever appropriate, regulate the industry on the basis of principles. This allows flexibility and gives operators the discretion to decide which systems, controls, policies and procedures are appropriate to establish and maintain, to ensure the protection of the three licensing objectives. However a feature of principles-based regulation is that it lacks absolute certainty and in any new regulatory regime operators and individuals require clear conditions or codification in certain key areas in order to reach or maintain the required regulatory standards.

1.8 The concept of principles-based regulation has been adopted by other regulatory bodies as a way of creating a balanced, proportionate, non-bureaucratic and modern regime. Principles-based regulation means focusing on the outcomes that really matter rather than on procedural box-ticking. However, until the new regime has had time to bed in it will be necessary to maintain a degree of prescription; relaxing or reducing licence conditions as and when it is clear that they are no longer required and when operators are more comfortable with a principles-based approach.

1.9 This tension between a principles-based and a prescriptive approach is particularly acute in the case of small operators who require authoritative and accessible guidance on how to comply with the regulatory regime. The Commission recognises that it has particular obligations to small operators and is looking to provide additional advice to small operators to minimise the regulatory burden whilst ensuring that these operators are engaged with the regulatory regime.

2. General principles

2.1 This section deals with high-level principles and values that will govern the manner in which the Gambling Commission approaches its work.

Original draft Statement of Principles

2.2 In exercising its functions under the Act and in ensuring delivery of the licensing objectives, the Gambling Commission will be guided by the following principles:

- it will regulate gambling in the public interest and it will do so vigorously;
- it will regulate in a transparent, accountable, proportionate, consistent and targeted manner;
- its approach to regulation will be risk-based;
- its assessment of risk will be led by the evidence, relevant information, and best regulatory practice in the light of international experience; where there is no evidence, it will take a cautious approach;
- it will consult widely; and
- it will use its resources effectively.

2.3 These policies and practices will be reviewed regularly by the Commissioners, with the aim of ensuring that the regulatory burden imposed by the Commission is the minimum consistent with the carrying out of its duties under the Act.

2.4 The Commission will aim to establish an effective working relationship with licensing authorities, the gambling industry, those working in the industry, gamblers and others with an interest in socially responsible gambling and its regulation. In addition, it will work closely with a range of other regulators and Government bodies to share information and, where appropriate, to take coordinated regulatory action.

Discussion

2.5 Respondents to the SoP consultation stated that the principles the Commission proposed to be guided by were appropriate.

2.6 The Commission recognises that a great deal of knowledge and expertise lies with those working in the gambling industry and in other organisations with an interest, including faith groups and local authorities. We have harnessed this expertise through formal consultation exercises and through stakeholder meetings and workshops. This approach will continue after the implementation of the Act and will include groups such as the Social Responsibility Forum. The intention is to be adaptive and flexible to the requirements that arise and that such groups should not outlive their usefulness.

2.7 A new paragraph has been added to take account of the variations in arrangements between the different administrations within Great Britain.

Amendments to draft Statement of Principles

2.8 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

2.9 In exercising our functions under the Act and in ensuring delivery of the licensing objectives, the Commission will be guided by the following principles:

- we will regulate gambling in the public interest and we will do so vigorously;
- we will regulate in a transparent, accountable, proportionate, consistent and targeted manner;
- our approach to regulation will be risk-based;
- our assessment of risk will be led by the evidence, relevant information and best regulatory practice in the light of international experience; where there is no evidence, we will take a cautious approach;
- we will consult widely; and
- we will use our resources effectively.

2.10 These policies and practices will be reviewed regularly by the Commissioners, with the aim of ensuring that the regulatory burden imposed by the Commission is the minimum consistent with the carrying out of our duties under the Act.

2.11 The Commission will aim to establish *appropriate and* effective working relationships with licensing authorities, the gambling industry, those working in the industry, gamblers and others with an interest in socially responsible gambling and its regulation. In addition, we will work closely with a range of other regulators and Government bodies to share information and, where appropriate, to take coordinated regulatory action.

2.12 *The jurisdiction of the Commission covers Great Britain – England, Scotland and Wales. The Commission will establish and maintain appropriate working relationships within each administration, taking account of the differences between them.*

3. Licensing objectives

3.1 This section deals with the licensing objectives.

Original draft Statement of Principles

3.2 The licensing objectives set by the Gambling Act 2005 are:

- to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- to ensure that gambling is conducted in a fair and open way; and
- to protect children and other vulnerable persons from being harmed or exploited by gambling.

3.3 The Gambling Commission has an overriding duty to pursue and have regard to these objectives, and to permit gambling in so far as it thinks is reasonably consistent with them.

Discussion

3.4 The three licensing objectives are prescribed by the Act, and as such need no revision.

3.5 Beyond this statement of the Commission's purpose, it is relevant to add a statement on the Commission's expectations of anyone who wishes to conduct gambling activities in Britain. The draft of our expectations was included in the LCCP Consultation document (Section 1.2.1, page 6).

Amendments to draft Statement of Principles

3.6 The final wording of the Statement of Principles is shown in the box below, with amendments noted in ***bold italics***.

3.7 The licensing objectives set by the Act are:

- to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- to ensure that gambling is conducted in a fair and open way; and
- to protect children and other vulnerable persons from being harmed or exploited by gambling.

3.8 The Commission has an overriding duty to pursue and have regard to these objectives, and to permit gambling in so far as we think it reasonably consistent with them.

3.9 ***The Commission expects licensed operators to conduct their gambling operations in a way that does not put these objectives at risk and has designed licence conditions and codes of practice in order to ensure this. The Commission also expects those holding licences, including, as appropriate, personal licences, to:***

- ***conduct their business with integrity;***

- *act with due care, skill and diligence;*
- *take care to organise and control their affairs responsibly and effectively, having adequate systems and controls to protect the three licensing objectives;*
- *maintain adequate financial resources;*
- *have due regard to the interests of customers and treat them fairly;*
- *have due regard to the information needs of customers, and communicate with them in a way that is clear, not misleading, and allows them to make a properly informed judgment about whether to gamble;*
- *manage conflicts of interest fairly; and*
- *work with the Commission in an open and cooperative way, and disclose to the Commission anything relating to the operator of which the Commission would reasonably expect notice.*

Objectives

Objective 1: to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

To prevent gambling from being a [source of crime](#)

Original draft Statement of Principles

3.10 As the Gambling Review Body noted, “a strong framework for regulation remains essential to keep gambling crime free”. In approaching the first objective to **prevent crime**, the Commission will maintain rigorous licensing procedures that aim to keep criminals out of providing facilities for gambling, or being associated with providing such facilities. The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences, and others relevant to¹ the application. This will provide the Commission with the power to make enquiries about and investigate those who are involved in the control of a company. In particular, the Commission will take a serious view of any offences involving dishonesty committed by applicants for licences and persons holding or relevant to operating or personal licences. In those circumstances there will be a presumption in favour of refusing an application or reviewing a licence, but each case will be considered on its merits.

3.11 In relation to the prevention, investigation and prosecution of crime associated with gambling, the Commission will give priority to tackling:

- crimes in which gambling is an intrinsic element, for example illegal gambling;
- financial crimes which operators should seek to prevent, such as money laundering, including offences under the Proceeds of Crime Act, and illegal money lending; and
- crimes which affect the outcome of gambling for other participants.

¹ A person is relevant to an application if, in particular, he is likely to exercise a function in connection with, or to have an interest in, the licensed activities (Gambling Act 2005 section 70(9)(b)).

3.12 The Commission will work closely with local licensing authorities, other law enforcement agencies throughout Great Britain, and other regulators (such as the National Lottery Commission, Office of Fair Trading and Ofcom) to share information and, where appropriate, investigate offences. Although the Commission will focus on crimes within the Gambling Act, rather than those unrelated to the Act such as burglary of gambling-licensed premises or theft by staff, it will have an interest in the outcome of such investigations where they raise issues of relevance to the continuing suitability of persons licensed by the Commission. In those circumstances, the Commission could separately commence a review of the licence and take action against the licence holder.

Discussion

3.13 Proposals for establishing the integrity, and assessing the freedom from criminality, of licence applicants generated a great deal of comment in responses to the LCE consultation. There was agreement about the appropriateness of these as factors for investigation but concern about how integrity could be defined and that the level of detail sought was excessive and burdensome. In finalising the application processes for both operating and personal licences, the Commission maintained its position with regard to the collection of sufficient information to build a picture of an applicant from which to make a judgment. It was made clear that informed judgments would be made and that the determination of applications was not a simple matter of pass or fail. The Act both allows the Commission to refuse a licence if an applicant has a relevant conviction (defined in s71 and schedule 7 to the Act) and to take criminal convictions into account when considering someone's suitability.

3.14 The LCE Consultation document addressed illegal gambling and cheating in gambling. The general approach in the Act is that all gambling is illegal unless it is authorised or an exception or exemption applies. This creates a clear boundary between permitted and prohibited activity which it is in the interests of all stakeholders to maintain. A proportion of the Commission's intelligence and enforcement resources will be dedicated to identifying, investigating and prosecuting unlicensed persons who provide gambling facilities or equipment. Local licensing authorities, the Commission and the police may collaborate on joint enforcement operations.

3.15 The LCCP consultation addressed a number of financial crimes potentially affecting the gambling industry and established codes of practice for financial requirements for operators in various sectors. These included procedures to ensure compliance under the Proceeds of Crime Act 2002, the 2003 Money Laundering Regulations and the Terrorism Act 2000.

3.16 Other offences considered in terms of compliance and enforcement include promoting illegal lotteries and cheating. Sporting regulators will be expected to deal robustly with suspected incidents of cheating within sport and the Commission is also undertaking further work on integrity in sports betting. All operators will be expected to have in place adequate systems and controls to deter cheating, particularly by the sports men and women they regulate under the rules of their sport; they will wish to do this in order to protect their own reputation and that of the industry as a whole.

3.17 Responses to the consultation suggest the need to define roles and responsibilities between the Commission and other agencies to avoid duplication. There is no definitive statement of these relationships but some further particulars can be

found in Guidance to Licensing Authorities Part 3 – Enforcement and Compliance, principles to be applied. This is currently at the consultation stage but sets out that:

- The Commission will generally concentrate on the way in which gambling is provided while licensing authorities will concentrate on issues related to the premises themselves.
- The Act gives licensing authorities, the Commission and the police parallel powers of inspection in respect to premises. The Commission has recommended a coordinated or multi-functional approach. The regulatory sanctions that can be applied by each agency are prescribed in the Act and all three have powers to prosecute (in England and Wales).

Amendments to draft Statement of Principles

3.18 The final wording of the Statement of Principles is shown in the box below, with amendments noted in ***bold italics***. This includes an addition on the Commission’s approach to the prevention of crime which was described in the commentary section of the SoP Consultation document.

3.19 As the Gambling Review Body noted, ‘a strong framework for regulation remains essential to keep gambling crime free’. In approaching the first objective to ***prevent gambling from being a source of crime***, the Commission will maintain rigorous licence application and monitoring procedures that aim to keep criminals out of providing facilities for gambling, or being associated with providing such facilities. The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences, and others relevant to the application. This will provide the Commission with the power to make enquiries about, and investigate those who are involved in, the control of a company. In particular, the Commission will take a serious view of ***all relevant*** offences committed by applicants for licences and persons holding or relevant to² operating or personal licences. In those circumstances there will be a presumption in favour of refusing an application or reviewing a licence, but each case will be considered on its merits.

3.20 In relation to the prevention, investigation and prosecution of crime associated with gambling, the Commission will give priority to tackling:

- crimes in which gambling is an intrinsic element, for example illegal gambling;
- financial crimes which operators should seek to prevent, such as money laundering, including offences under the Proceeds of Crime Act, and illegal money lending; and
- crimes which affect the outcome of gambling for other participants.

3.21 The Commission will work closely with local licensing authorities, other law enforcement agencies throughout Great Britain, and other regulators (such as the National Lottery Commission, Office of Fair Trading and Office of Communications) to share information and, where appropriate, investigate offences. Although the Commission will focus on crimes within the Act, rather than those unrelated to the Act such as burglary of gambling-licensed premises or theft by staff, we will have an

² A person is relevant to an application if, in particular, he is likely to exercise a function in connection with, or to have an interest in, the licensed activities (Gambling Act 2005 section 70(9)(b)).

interest in the outcome of such investigations where they raise issues of relevance to the continuing suitability of persons licensed by the Commission. In those circumstances, the Commission could separately commence a review of the licence and take action against the licence holder.

3.22 The Commission will seek to prevent crime by:

- *licensing operators and key employees to maintain rigorous pre-entry screening to ensure that those offering facilities for gambling or working in the industry are honest and competent;*
- *examining the corporate control structures of operators to enable the Commission to identify and satisfy itself of the integrity of controllers and others relevant to the operation of gambling;*
- *investigating and prosecuting illegal gambling;*
- *pursuing other offences under the Act as appropriate;*
- *providing advice of a general nature on compliance to licensed operators and potential operators;*
- *providing guidance to local licensing authorities;*
- *imposing conditions on licensed operators, monitoring compliance and applying sanctions for non-compliance;*
- *making available general advice to the public on what activities are permissible without a licence;*
- *providing guidance to operators on staff training to make them aware of their obligations with regard to crime prevention e.g. under the Proceeds of Crime Act 2002;*
- *employing staff with the skills, knowledge and necessary powers to carry out compliance and enforcement functions; and*
- *building and maintaining good liaison and working relationships with local authorities, other regulators and law enforcement bodies.*

To prevent gambling from being a source of disorder

Original draft Statement of Principles

3.23 The other strand of the first licensing objective relates to the prevention of gambling being a source of **disorder**. Licensing authorities will have the principal role in delivering this objective, but the Commission will also have a key role in this, including:

- advising licensing authorities on the responsibilities that they have in relation to premises licensing and the achievement of this objective; and
- where the Commission becomes aware that there are problems arising from disorder at gambling premises, it will consider whether the operating licence should be reviewed to confirm that the operator continues to be suitable to offer facilities for gambling.

Discussion

3.24 The consultation raised the issue of how the Commission will be made aware of problems of disorder arising at gambling premises. This is primarily a matter for licensing authorities and further details can be found in 'Guidance to Licensing Authorities Part 3 – Enforcement and Compliance, principles to be applied'. Operators must take responsibility for good management of their facilities, which in part includes preventing or limiting disorderly conduct by customers.

Amendments to draft Statement of Principles

3.25 There are no amendments to this paragraph of the Statement of Principles.

3.26 The other strand of the first licensing objective relates to the prevention of gambling being a source of **disorder**. Licensing authorities will have the principal role in delivering this objective, but the Commission will also have a key role in this, including:

- advising licensing authorities on the responsibilities that they have in relation to premises licensing and the achievement of this objective; and
- where the Commission becomes aware that there are problems arising from disorder at gambling premises, we will consider whether the operating licence should be reviewed to confirm that the operator continues to be suitable to offer facilities for gambling.

Objective 2: to ensure that gambling is conducted in a fair and open way

Original draft Statement of Principles

3.27 In approaching the second licensing objective, that gambling should be conducted in a **fair and open way**, the Commission will be concerned to ensure that not only is the gambling fair in the way it is played, but that the rules are transparent to players and they know what to expect. It will achieve this by working to ensure that:

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
- the rules are fair;
- advertising is not misleading;
- the results of events and competitions on which commercial gambling takes place are made public; and
- machines, equipment and software used to produce the outcome of games comply with relevant regulations made under the Act (e.g. under section 240), meet standards set by the Commission and operate as advertised.

Discussion

3.28 Responsibility for ensuring that advertising rests in the first instance with the Advertising Standards Authority (ASA). The Office of Fair Trading has statutory powers of enforcement when needed. The Commission will work collaboratively with the ASA in relation to advertising of gambling.

Amendments to draft Statement of Principles

3.29 The final wording of the Statement of Principles is shown in the box below, with amendments noted in ***bold italics***. The point on advertising related to gambling has been clarified.

3.30 In approaching the second licensing objective, that gambling should be conducted in a **fair and open way**, the Commission will be concerned to ensure that not only is the gambling fair in the way it is played, but that the rules are transparent to players and they know what to expect. We will achieve this by working to ensure that:

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
- the rules are fair;
- ***advertising codes are put in place that prevent consumers from being misled;***
- the results of events and competitions on which commercial gambling takes place are made public; and
- machines, equipment and software used to produce the outcome of games comply with relevant regulations made under the Act (e.g. under section 240), meet standards set by the Commission and operate as advertised.

Objective 3: to protect children and other vulnerable persons from being harmed or exploited by gambling

To protect children from being harmed or exploited by gambling

Original draft Statement of Principles

3.31 The first strand of the third licensing objective relates to **protecting children**. With limited exceptions, the intention of the Gambling Act is that children and young people should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective talks of protecting children from being “harmed or exploited by gambling”, but in practice that means preventing them from taking part in or being in close proximity to gambling, and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

It will be a criminal offence to invite, cause or permit a child or young person to gamble (subject to the exceptions in section 46).

3.32 In approaching this objective the Commission will, for example:

- issue guidance to local authorities about ensuring that gambling premises are planned in such a way that access by children can be prevented;
- issue a code about access to casino premises in particular, in accordance with section 176;
- require persons operating premises in which gambling takes place to take measures, such as supervision of entrances; segregation of gambling from areas frequented by children; supervision of gaming machines in gambling premises that are not restricted to adults; and training of staff to prevent access by children and young persons;
- require persons operating remote gambling to ensure that there are adequate age verification measures in place to prevent children and young persons gambling on their sites; and
- work with the Committee of Advertising Practice to develop an advertising code on gambling, which will be backed up by conditions on the operating licence.

Discussion

3.33 In contrast to the first two licensing objectives, which were essentially covered by the 1968 Gaming Act, the emphasis on the protection of children and vulnerable persons is wholly new and the subject of licence conditions. Operators will be required to have systems in place to prevent under-18s from taking part in prohibited activities and where underage gambling comes to light they must return stakes and withhold prizes. It is understood that occasional inadvertent breaches may occur, but persistent breaches will be dealt with severely.

3.34 Some of the detail in the original drafting requires updating to reflect the ways in which the Commission's thinking has developed. In some instances this relates to the division of responsibility between the Commission and Licensing Authorities.

Amendments to draft Statement of Principles

3.35 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

3.36 The first strand of the third licensing objective relates to **protecting children from being harmed or exploited by gambling**. With limited exceptions, the intention of the Act is that children and young people should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective *states that* children *must be protected* from being "harmed or exploited by gambling", but in practice that means preventing them from taking part in or being in close proximity to gambling, and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way as to make them particularly attractive to children. It will be a criminal offence to invite, cause or permit a child or young person to gamble (subject to the exceptions in section 46).

3.37 In approaching this objective the Commission will, for example:

- issue guidance to local authorities about ensuring that gambling premises are **presented** in such a way that access by children can be prevented;
- issue a code about access to casino premises in particular, in accordance with section 176;
- require persons operating premises in which gambling takes place to take measures, such as supervision of entrances and training of staff, to prevent access by children and young persons;
- require persons operating remote gambling to ensure that there are adequate age verification measures in place to prevent children and young persons gambling on their sites; and
- work with the Committees of Advertising Practice to develop advertising codes on gambling, ***backed by effective enforcement action where those codes are breached.***

To protect vulnerable persons from being harmed or exploited by gambling

Original draft Statement of Principles

3.38 The second strand of the third licensing objective relates to **protecting vulnerable persons** from being harmed or exploited by gambling. The Gambling Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission will not seek to define “vulnerable persons”, but for regulatory purposes it will assume that this group includes:

- people who gamble more than they want to;
- people who gamble beyond their means; and/or
- people who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs.

3.39 The Commission’s role is to protect such people from harm and exploitation. Its role does not, for example, extend to treatment or care of those who have gambling problems, though the Commission will have an interest in keeping up to date with developments and trends in work of that kind. However, the Commission is required by section 24 of the Act to include in codes the arrangements that should be made by operators for making assistance available to people who are or who may be affected by problems related to gambling. This assistance may be general, such as supporting the work of the Responsibility in Gambling Trust (RiGT); or it may be specific to individuals, including measures such as interventions by staff or self-banning.

3.40 In approaching this objective the Commission will, amongst other things:

- issue codes that include social responsibility requirements, which will set out what practical measures operators must take, including staff training;
- ensure that marketing practices (including advertising and inducements) do not exaggerate the chances of winning or encourage players to gamble more than they can afford or want to;

- liaise with the Responsibility in Gambling Trust and others to build and maintain knowledge about the causes of problem gambling and measures that may be taken to reduce the prevalence of problem gambling; and
- undertake regular prevalence studies. The fieldwork for the first of these will take place in 2006.

3.41 The focus of the Commission will be on identifying best practice in protecting vulnerable people from being harmed or exploited by gambling, and where appropriate placing requirements on operators to put particular measures in place and to monitor their compliance. It will normally rely on external research but may find it helpful to carry out, or commission, applied research on the effectiveness of particular measures – both before they are implemented and to monitor how effective they are in practice. In interpreting the available evidence, the Commission will want to take a precautionary approach. For example, caution may be justified where evidence is mixed or inconclusive, and the Commission would not want to restrict its discretion by requiring clear evidence that something was unsafe before taking measures to restrict it.

Discussion

3.42 The third bullet point of the first paragraph about mental impairment has been updated to align it with terms currently considered appropriate for describing individuals with mental health needs, but other than that the first paragraph remains unchanged.

3.43 The term intervention can be misinterpreted as necessarily involving staff actively trying to prevent gambling, and as such it can have negative connotations. The term has been replaced with ‘customer interaction’ so as to make it clear that the concept embraces the whole gamut of providing information as well as support to people with a potential gambling problem. For similar reasons the expression self-banning has been replaced by ‘self-exclusion’.

3.44 Detailed guidance on policies and procedures that licensees must implement with regard to self-exclusion and customer interaction can be found in Licence Conditions and Codes of Practice, specifically Part 1, section 15 and Part 2, sub-sections 2.4 and 2.5.

3.45 Since the SoP Consultation document, RiGT have developed their research strategy and the draft principles have been updated to reflect the revised focus of their research programme. The reference to the prevalence studies has also been updated.

3.46 Social responsibility codes in relation to protecting vulnerable people are provided in Licence Conditions and Codes of Practice, specifically Part 1 section 15 and Part 2 sub-sections 2.1, 2.3 and 4.

3.47 The Commission has set up a working group with industry and expert representation to develop practical advice on the implementation of the Commission’s social responsibility conditions and codes. The Commission has a limited research resource within our policy function, and will liaise with DCMS, RiGT, the National Lottery Commission (NLC) and the Department of Health (DoH) on research. This will ensure joined up thinking and best use of resources in taking forward the protection of children and vulnerable people from being harmed or exploited by gambling.

3.48 Within the Licence Conditions and Codes of Practice or through the provision of good practice advice requirements will be set out for:

- training of staff and guidance on customer interaction;
- arrangements for self-exclusion and operators policy on excluding people they believe may have a problem;
- reality checks (such as clocks and breaks in play);
- speed of play;
- socially responsible policies on giving credit (where permissible);and
- display of information about problem gambling and where help may be obtained.

Amendments to draft Statement of Principles

3.49 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

3.50 The second strand of the third licensing objective relates to **protecting vulnerable persons from being harmed or exploited by gambling**. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission will not seek to define ‘vulnerable persons’, but for regulatory purposes we will assume that this group includes:

- people who gamble more than they want to;
- people who gamble beyond their means; and/or
- people who may not be able to make informed or balanced decisions about gambling, *for example because of mental health problems, learning disability, or substance misuse relating to alcohol or drugs*.

3.51 The Commission’s role is to protect such people from harm and exploitation. Our role does not, for example, extend to treatment or care of those who have gambling problems, though the Commission will have an interest in keeping up to date with developments and trends in work of that kind. However, the Commission is required by section 24 of the Act to include in codes the arrangements that should be made by operators for making assistance available to people who are or who may be affected by problems related to gambling. This assistance may be general, such as supporting the work of the Responsibility in Gambling Trust; or it may be specific to individuals, including measures such as *customer interaction and self-exclusion*.

3.52 In approaching this objective the Commission will, amongst other things:

- issue codes that include social responsibility requirements, which will set out what practical measures operators must take, including staff training;
- ensure that marketing practices (including advertising and inducements) do not exaggerate the chances of winning or encourage players to gamble more than they can afford or want to;

- liaise with the Responsibility in Gambling Trust and others to build and maintain knowledge about problem gambling and measures that may be taken to reduce the prevalence of problem gambling; and
- undertake regular prevalence studies³.

3.53 The focus of the Commission will be on identifying best practice in protecting vulnerable people from being harmed or exploited by gambling, and where appropriate placing requirements on operators to put particular measures in place and to monitor their compliance. We will normally rely on external research but may find it helpful to carry out, or commission, applied research on the effectiveness of particular measures – both before they are implemented and to monitor how effective they are in practice. In interpreting the available evidence, the Commission will want to take a precautionary approach. For example, caution may be justified where evidence is mixed or inconclusive, and the Commission would not want to restrict its discretion by requiring *conclusive* evidence that something was unsafe before taking measures to restrict it.

³ The fieldwork for the first of these commenced in September 2006 and will be reported on in September 2007.

4. Provisions of the Act

4.1 There are some specific provisions of the Act on which the Commission is required to comment in the Statement. This section deals with these procedural issues.

Section 23: Statement of principles for licensing and regulation

Original draft Statement of Principles

4.2 The Commission will review this Statement from time to time and will revise it when appropriate. Before doing so it will consult on the proposed changes.

Discussion

4.3 No period has been set for the frequency for any review of the Statement of Principles, and nor are any particular triggers specified. It is proposed to retain the flexibility given by the original wording.

4.4 The Commission recognises that frequent changes in direction create regulatory uncertainty, and thus add to the regulatory burden upon operators, and will seek to avoid this. However the Commission will review and revise the Statement of Principles when necessary.

Amendments to draft Statement of Principles

4.5 There are no material changes to this paragraph in the Statement of Principles.

4.6 The Commission will review this Statement from time to time and will revise it when appropriate. Before doing so we will consult on the proposed changes.

Section 70: Consideration of applications: general principles

Consideration of applications

Original draft Statement of Principles

4.7 This section deals with principles for considering applications for operating licences under section 69 and personal licences under section 128.

4.8 In considering applications for operating and personal licences the Commission will have regard to the licensing objectives in section 1 of the Act.

4.9 The Commission will provide advice to applicants on the information that must be submitted with an application for a licence and the standards that it will expect them to meet.

4.10 The Commission will offer an opportunity to make representations to all persons whose application for a licence it is minded to refuse and in all cases where, following a review, it proposes to revoke a licence or impose another penalty under section 117 of the Act.

Discussion

4.11 The Commission set out our general approach to the consideration of applications in the LCE consultation document Responses to the licensing consultation, which was in response to the Licensing aspect of the LCE Consultation document. As a result of the proposals in the LCE Consultation document, an additional section has been added about the licensing process.

Amendments to draft Statement of Principles

4.12 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.13 This section deals with principles for considering applications for operating licences under section 69 and personal licences under section 128.

4.14 *The Commission will:*

- *be informed by promotion of the three licensing objectives set out in section 1 of the Act;*
- *be rigorous but proportionate, in particular asking for no more information than is needed to reach decisions relating to licensing: and*
- *use electronic applications so far as possible.*

4.15 The Commission will provide clear advice to applicants on the information that must be submitted with an application for a licence and the standards that we will expect them to meet.

4.16 The Commission will offer an opportunity to make representations to all persons whose application for a licence we are minded to refuse. *There will also be the opportunity to make representations in all cases where, following a review, we propose to revoke a licence or impose another penalty under section 117 of the Act.*

Assessment of integrity

Original draft Statement of Principles

4.17 The Commission will seek to ensure that gambling does not become a source of crime, by requiring those individuals seeking licences and persons relevant to licence applications made by companies, partnerships and other bodies to undergo enhanced criminal records checks. Where appropriate, it will also seek information from other law enforcement agencies, gambling regulators in other jurisdictions and other bodies which may hold information relevant to the application. It will also have regard to any references that the applicant chooses to submit in support of the application. A “person relevant” to an application is defined in section 70(9) as a “person who, in particular, is likely to exercise a function in connection with or have an interest in the licensed activities”. This would include, for example, directors of a company applicant.

4.18 The Act provides that the Commission may assume integrity for certain classes or categories of applicant.

Discussion

4.19 In the LCE Consultation document, the Commission asked for views on our proposals to establish whether an applicant has any record of criminality. As a result of the responses to that consultation, as set out in the LCE consultation document *Responses to the licensing consultation*, this section has been amended, taking into account the decision to restrict enhanced criminal record checks to instances where there are particular concerns.

4.20 In the responses to the LCCP consultation and the Licensing part of the LCE Consultation document, no category or class of potential applicant or relevant person was suggested as qualifying for an exemption in relation to investigations into integrity. However the Commission will assume integrity for local authorities that apply to run lotteries. Therefore the paragraph has been revised.

Amendments to draft Statement of Principles

4.21 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.22 The Commission will seek to ensure that gambling does not become a source of crime, by requiring those individuals seeking licences and persons relevant to licence applications made by companies, partnerships and other bodies to undergo criminal records checks *and in certain circumstances, where particular concerns exist, enhanced criminal records checks*. Where appropriate, we will also seek information from other law enforcement agencies, gambling regulators in other jurisdictions and other bodies which may hold information relevant to the application. We will also have regard to any references that the applicant chooses to submit in support of the application. A 'person relevant' to an application is defined in section 70(9) as a 'person who, in particular, is likely to exercise a function in connection with or have an interest in the licensed activities'. This would include, for example, directors of *an applicant company*.

4.23 The Act provides that the Commission may assume integrity for certain classes or categories of applicant. *The Commission will assume integrity for local authorities that apply to run lotteries. However at this stage we have not identified any other classes of applicant or other person that should merit such an assumption.*

Assessment of competence

Original draft Statement of Principles

4.24 It will be the responsibility of operators to ensure that, where this is a requirement, staff hold personal licences issued by the Commission and that all staff are properly trained to carry out their functions. The Commission will consider whether the operator's training programme meets any minimum requirements that may be issued by it from time to time.

4.25 Operators will be required to demonstrate how they propose to meet the requirement to be socially responsible in the manner in which they offer gambling.

Discussion

4.26 The LCCP consultation considered the need for operators to ensure that their staff understood and adhered to the code of practice provisions related to social responsibility. The final LCCP included code of practice provisions related to social responsibility and the Statement of Principles has been strengthened to reflect this requirement. The Commission has clarified that training relates to all staff involved in the provision of gambling.

Amendments to draft Statement of Principles

4.27 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.28 It will be the responsibility of operators to ensure that, where this is a requirement, staff hold personal licences issued by the Commission and that all staff ***involved in the provision of gambling*** are properly trained to carry out their functions ***including an understanding of social responsibility***. The Commission will consider whether the operator's training programme meets any minimum requirements that may be issued by it from time to time.

4.29 Operators will be required to demonstrate how they propose to meet the requirement to be socially responsible in the manner in which they offer gambling. ***The Commission will consider the robustness of operators' policies and procedures for socially responsible gambling which, to comply with licence conditions and relevant code conditions, must include but need not be confined to:***

- ***policies and procedures designed to prevent underage gambling;***
- ***making information readily available to their customers on how to gamble responsibly;***
- ***policies and procedures for customer interaction where there are concerns that a customer's behaviour may indicate problem gambling;***
- ***procedures for self-exclusion;***
- ***a commitment to, and how they will contribute to, research into the prevention and treatment of problem gambling;***
- ***a commitment to, and how they will contribute to, public education on the risks of gambling and how to gamble safely; and***
- ***a commitment to, and how they will contribute to, the identification and treatment of problem gamblers where relevant.***

Assessment of financial or other circumstances

Original draft Statement of Principles

4.30 The Commission will make enquiries about the financial position of those seeking to operate gambling. It will require to be satisfied that, where appropriate, an operator has established reserves or other arrangements to cover potential liabilities.

4.31 The Commission will normally require applicants for personal management licences to supply a statement of assets or liabilities and such other evidence that is necessary to form a judgement about his or her financial means.

Discussion

4.32 The Commission has consulted with the industry and other interested parties in its Financial Conditions consultation, about how the Commission will assess the financial and other circumstances of organisations applying for operating licences, and about how the Commission will assess the financial circumstances of people applying for personal management licences. As a consequence we have revised these paragraphs.

Amendments to draft Statement of Principles

4.33 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.34 The Commission will make enquiries about the financial position of those seeking to operate gambling. We will need to be satisfied that, where appropriate, an operator has *sufficient resources to cover liabilities and to manage its business consistently with the licensing objectives*.

4.35 The Commission will require *a standard credit check for all applicants for personal licences. In addition, for main Board Directors, sole proprietors and partners of an entity to be licensed (with the exception of lotteries) a high level statement of assets or liabilities will be required in order to satisfy us as to the individual's financial status*.

Assessment of suitability of gaming machines and other gaming equipment

Original draft Statement of Principles

4.36 The Commission is required to consider the suitability of gaming machines and other equipment to be used in connection with licensed activities. In particular, the Commission will seek to ensure that gambling is fair and open by requiring specified categories of machines and equipment to be tested before they are used by the public. It will set standards with which manufacturers and software providers must comply. In setting such standards the Commission will have regard to the standards that are imposed in other jurisdictions, so that, where appropriate, the standards it requires are consistent with those.

Discussion

4.37 The Commission is currently considering responses to the Gaming Machine Technical Standards consultation and is of the view that to be suitable, gaming machines that are manufactured, supplied into the Great Britain market, bought or sited will need to meet the technical standards that result from that consultation. The Commission is developing a process to appoint accredited bodies which will test gaming machines against the technical standards.

Amendments to draft Statement of Principles

4.38 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.39 The Commission is required to consider the suitability of gaming machines and other equipment to be used in connection with licensed activities. In particular, the Commission will seek to ensure that gambling is fair and open by requiring *all categories of machines and gambling equipment to comply with the Commission's technical standards for gaming machines or remote gambling equipment, or our specifications for casino and bingo equipment as appropriate, before they are used by the public.*

Section 73: Procedure

Delegation of functions in relation to applications

Original draft Statement of Principles

4.40 The Commission will delegate functions in relation to the determination of applications to Commission staff. Actions and decisions taken by staff with regard to applications will be carried out on behalf of and with the authority of the Commission.

4.41 Gambling Commission internal procedures will determine which categories, if any, should routinely go before the Commissioners for decision. In addition to those categories, instructions are likely to provide that all applications that raise significant, novel or contentious issues should be referred.

Discussion

4.42 To more accurately reflect the legal requirements under this section these paragraphs have been revised.

Amendments to draft Statement of Principles

4.43 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.44 *In accordance with the powers set out in paragraph 8 of Schedule 4 of the Act, the Commission has established a Regulatory Panel of Commissioners, to whom certain licensing decisions and regulatory matters will be, and others may be, referred. The Commission has also approved a formal scheme of delegation, which provides that certain decisions, including licensing decisions, may be taken by or under the direction of nominated employees of the Commission. The scheme of delegation, which is available on the Commission's website, will be kept under review and may be changed from time to time, in which case the revisions will be published on the Commission's website.*

4.45 *The Commission's scheme of delegation and* internal procedures will determine which categories, if any, should routinely go before the Commissioners for decision. In addition to those categories, applications that raise significant, novel or contentious issues *will be referred to Commissioners.*

The holding of oral hearings on applications

Original draft Statement of Principles

4.46 Where the Commission considers it necessary it will personally interview applicants for operating or personal licences before reaching a decision on the application. Such interviews may be carried out by the Commissioners or by Commission staff.

Discussion

4.47 The Commission elaborated plans for interviewing applicants in our LCE Consultation document. In the LCE consultation document *Responses to the licensing consultation* the Commission said it is likely that only those people new to the industry, without a job or who have been based outside the UK would be interviewed to assess their competence. As a result of that process this part of the Statement of Principles has been revised.

Amendments to draft Statement of Principles

4.48 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.49 *In addition to the information contained in the written application, we reserve the right to request additional information, and we may wish to interview applicants for personal or operating licences.*

4.50 *In particular, applicants for personal licences who are new to the industry and without a job, or who have been based outside the UK, may need to be interviewed to assess their competence in respect of the technical skills associated with gambling and their knowledge of gambling regulations.*

The evidence required or accepted in connection with applications

Original draft Statement of Principles

4.51 The Commission will publish comprehensive notes with application forms which will set out the information that the Commission requires about, for example, identity, qualifications/other evidence of competence, financial status, business proposals, etc, and the documents that should accompany the application.

Discussion

4.52 The LCE Consultation document set out the types of information and evidence that applicants will need to provide in respect of their application. The Statement of Principles has therefore been amended to include this.

Amendments to draft Statement of Principles

4.53 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.54 *Applicants will be required to provide enough information to allow the Commission to:*

- *establish identity including, for operating licences, the identity of the key individuals;*
- *evaluate integrity and competence, again including that of key individuals;*
- *take into account any criminal record they may have and in certain circumstances, where particular concerns exist, obtain an enhanced criminal records check;*
- *consider the finances, resources and other circumstances of their business or their financial circumstances as an individual; and*
- *evaluate their ability and determination to abide by the licensing objectives.*

Section 111: Power to limit duration of licences

Original draft Statement of Principles

4.55 By virtue of section 110, all operating licences will have an indefinite duration unless revoked or suspended, or unless the Commission makes a determination under section 111 to limit the duration of licences.

Discussion

4.56 The Commission has considered whether to limit the duration of operating licenses and has concluded not to do so at this time. This will be kept under review but in the meantime the paragraph has been rewritten.

Amendments to draft Statement of Principles

4.57 The final wording of the Statement of Principles is shown in the box below, with amendments noted in *bold italics*.

4.58 *Section 111(1) of the Act gives the Commission the power to determine that operating licences, or a specified class of operating licence, shall cease to have effect at the end of a specified period. The Commission does not intend to exercise this power at the present time, but will keep this matter under review.*

Section 112: Renewal of licences

Original draft Statement of Principles

4.59 There was no section in the consultation draft that explicitly set out the principles that the Commission would apply in relation to the renewal of licences.

Discussion

4.60 If the Commission decided to make a determination under section 111 of the Act, then section 112(1) of the Act makes provision about how licensees may apply to the Commission for renewal of their licence. The section also makes provision for how applications for renewal should be handled.

4.61 As the Commission does not intend to exercise its powers under section 111 of the Act, it is not necessary to include any provisions relating to this section of the Act in the Statement of Principles at this time.

Amendments to draft Statement of Principles

4.62 The wording of these paragraphs in the Statement of Principles is shown in the box below, with new text noted in *bold italics*.

4.63 If the Commission decided to make a determination under section 111 of the Act, then section 112(1) of the Act makes provision about how licensees may apply to the Commission for renewal of their licence. The section also makes provision for how applications for renewal should be handled.

4.64 As the Commission does not intend to exercise its powers under section 111 of the Act, it is not necessary for the Commission to include any provisions relating to this section of the Act in the Statement of Principles at this time.

Section 121: Financial penalty

Original draft Statement of Principles

4.65 The Commission will issue a separate statement on financial penalties.

Discussion

4.66 The matter of financial penalties was raised in the LCE Consultation document. Although the Act does not set any limit to the financial penalties that may be imposed, the Commission stated in the consultation that we would not normally impose a penalty greater than 10% of turnover (plus the recovery of any profits made from the unacceptable acts). This was intended to provide a measure of comfort to operators but in fact became the subject of much discussion and debate and the suggestion that 10% of gross gaming yield might be more appropriate.

Amendments to draft Statement of Principles

4.67 The reference to the separate statement on financial penalties has been removed as it does not form a part of the formal Statement of Principles.

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.

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