



Shared regulation - update

For Board approval	
For Board briefing	
For Board steer	
For Board information	

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Executive summary

1. This paper provides the Board with an update on the progress of the shared regulation workstream. In particular, it provides an overview of key achievements delivered since the Board endorsed the shared regulation strategy in 2013. The paper is provided for the Board's information although the workstream would welcome any observations from Commissioners on achievements to date or, in particular, future plans.
2. The Commission's Business Plan for 2015/16 has, as its first strategic objective, Building partnership and understanding. The implementation of which is advising and working with Government and other partners on gambling and its regulation.
3. To deliver this objective we have continued to invest in developing our approach to shared regulation via the building, maintaining and development of effective regulatory relationships with local authorities, law enforcement bodies and others and facilitating those bodies working together in conjunction with and independent of our direct partnership.
4. The Commission is mindful of the diversity contained within the 380 Licensing Authorities (LAs). This ranges from nationally specific issues – Scotland and the error in the drafting of the Act, through to their size, political leadership and hence focus of attention (for example B2 machines) their resourcing levels, their knowledge and experience as well as the degree of engagement they have with other agencies such as the police.
5. The Commission's overriding objective in operating shared regulation is to maximise access to, and deployment of, high quality resources across the regulatory systems in order to further the delivery of the licensing objectives.
6. The delivery of effective shared regulation is largely a matter of influencing hearts and minds. We have, for example, no means of formal sanction should an LA choose not to cooperate or to disengage. To continue our progress in delivering against our objectives requires regular proactive engagement with both LAs and the national bodies that they engage with. The challenges faced and next steps for the development of the work include the ongoing and ever more serious cuts to local government funding, the consequent loss of more experienced staff, the loss of a clear local focus as LAs look to share services across authorities and the risk that the key GLA messages do not gain traction with larger LAs.

Background

7. The Commission works in partnership with LAs to regulate gambling. In doing so, the Commission tends to focus on operators and issues of national or regional significance, and LAs will take the lead on regulating gambling locally. The Commission and LAs may work directly together on particular issues, for example where it may establish a precedent or help build capacity and learning to be rolled out more widely or in areas that overlap, such as dealing with illegal poker and illegal sited and supplied machines.
8. In the Commission's view, the statutory duty to aim to permit gambling, subject to reasonable consistency with the licensing objectives, is best delivered through partnership working between industry and regulator, including LAs. LAs should aim to work with local businesses to manage risks to the licensing objectives.

9. Since the Act was introduced a great deal of collective experience and insight has been developed, enabling LAs and the Commission to fulfil their roles within the shared regulatory system more effectively and efficiently.
10. In 2011, to facilitate partnership working and enable a more strategic approach to our management of shared regulation and dedicated resource for delivering advice, technical support, good practice and expertise the Commission established the Local Authority Liaison Unit (LALU) which:
 - advises LAs on matters relating to gambling regulation and targeting engagement with key groups such as London Boroughs, Metropolitan and coastal LAs¹;
 - coordinates activities designed to promote more effective gambling regulation, for example workshops and training sessions for LAs and produces up-to-date advice and support such as a series of 'quick guides' on specific subjects
11. As well as working directly with individual LAs, the shared regulation team engages with representative bodies such as the Local Government Association (LGA), the Convention of Scottish Local Authorities (COSLA), the Welsh Local Government Association (WLGA), the Society of Local Authority Lawyers and Administrators (SOLAR), the British Beer and Pub Association (BBPA) and the Institute of Licensing (IoL). These meetings provide opportunities to review regulatory policy and to discuss emerging trends and issues of concern.
12. The 2013 Board paper set out the key aims and objectives of the shared regulation workstream and measures to achieving objectives. The key objectives of shared regulation have not changed since those were endorsed by the Board at that time.

Key outputs

13. The shared regulation team has made significant progress since its inception in 2011 from a situation in which the relationship with LAs and the national agencies was at best patchy and lacking in genuine trust and cooperation to constructive and positive engagement with a significant proportion of the 380 LAs in addition to bodies such as the IoL and LGA, the police as well as gambling researchers and, on occasion, industry lawyers. There have been a number of key successes as set out below.
14. We have worked with Westminster City Council to create and deliver a training package on the subject of for the delivery of illegal gaming machines training to over 250 licensing and police officers across Great Britain. Crucially, this initiative minimised Commission resource and was self financing (through training fees) using the considerable training expertise of Westminster staff.
15. Through regular and proactive engagement with LAs we have now achieved a situation in which LAs, with support from the Commission and police are now taking the lead in machine seizures, particularly in London where it is more prevalent. A recent example was the operation in Hackney when 38 machines were taken from 7 premises².
16. We are continuing to maintain and disseminate learning and action in relation to such things as the gambling exemptions for pubs and clubs and illegal machines and we are

¹ These three groups are important because **London Boroughs** have a large number and variety of gambling premises, **seaside/coastal resorts** have a large number of gambling premises and the gambling is of a seasonal nature, **Metropolitan Boroughs** as they are large urban areas which typically have a large quantity and range of gambling premises

² <http://www.gamblingcommission.gov.uk/Press/2015/Council-seizes-38-illegal-gaming-machines.aspx>

currently investigating the feasibility of developing e-learning modules for LAs on these topics. This will provide us with a much more resource efficient means of training delivery as well as something which can readily be updated when required.

17. The Commission, in partnership with NCF (National Casino Forum) and an industry lawyer delivered a very successful series of training workshops in London and SE on the subject of illegal poker clubs (effectively illegal casinos). These workshops were initiated by the Commission in response to ongoing and fairly widespread non-compliance which was causing reputational damage to both the Commission and the role of LAs in effective use of their enforcement powers
18. We have also been successful in encouraging LAs to use non Gambling Act 2005 powers to address gambling regulation where appropriate. In April 2014 a prosecution was brought by the London Borough of Enfield for money laundering offences under the Proceeds of Crime Act 2002 (rather than summary-only offences under the Gambling Act 2005) against the owner of an illegal poker club – the Big Bluff. The owner of the club received a jail sentence and assets were confiscated. This was the first prosecution of its kind and the lessons learned are currently being deployed by another London authority in relation to an illegal club.
19. As a result of the continued focus on this issue, twelve illegal poker clubs have now been closed by LAs or otherwise ceased operation and work is ongoing to support relevant LAs in dealing with the remainder.
20. We have also revised the Guidance to LAs (the GLA). This was a significant piece of work, not least because the GLA runs to over 200 pages³. During the consultation phase prior to the publication of GLA5, the Commission engaged with over 450 licensing officers across GB at 15 events. This reinforced key messages contained in the new 5th version – including the importance of using the LA's Statement of Principles as key tool in setting out their expectations of local operators and also a means by which they can describe (through a local area profile) what vulnerabilities exist and how operators might address them. The events were extremely encouraging both in terms of sheer numbers but also the level of engagement and constructive thinking. The Commission continues to maintain close ties with LGA. One of the most significant results of this relationship was the production of their new Councillors Handbook for gambling which draws heavily on the key messages in GLA5 and much better reflects LA powers and their potential to regulate gambling.
21. We have a very close working relationship with Westminster and Manchester Councils on many levels. This year they jointly, with finance from the LGA, have commissioned a piece of research from Geofutures, led by Heather Wardle, to explore the existing research into area based vulnerability (to gambling related harm). The first phase of the research has now been published and is designed a tool for all LAs to develop their own local area profile as well as to focus their attention on those at risk of gambling harm. We were involved in discussion with them throughout the process through to the publication and have subsequently shared a platform with Heather at a number of events to reemphasise the close policy connections between the research and the new GLA (as well as the focus of many of the changes to the LCCP in the recent social responsibility review)
22. In 2010 we introduced an .LA annual returns⁴ process (as opposed to a quarterly one) as well as an Annual LA Statistics document in order to provide a more transparent

³ The reason for it being a long document is due to the way it is used. People only refer to a specific chapter which is relevant to the information they need. Hence there is repetition.

⁴ The Annual Return is included on the DCLG 'single data' list. This makes it obligatory on an LA to complete and form.

picture of LA related gambling activity and add value to the data we were collecting. The data assists the Commission in advising the Secretary of State as to the incidence, manner, effects and regulation of gambling as we are obliged to do (s26 GA 2005). It also provides LAs with a reference point to enable them to compare their performance with that of others. We invest considerable effort in encouraging the submission of the returns and conducting a QA on the information provided. This year and last we received 100% return rate from LAs in their annual data submission. The most recent findings were published in September. The report demonstrates that a number of LAs including some larger ones, are not using their fees income in the way required by the Act and DCMS guidance – their inspection, compliance and enforcement activity is either too low or non-existent. As a result of this output we will be focussing on these LAs more closely in the next 12 months and working with them to make them more aware of their responsibilities and to encourage them to take action to address the situation.

23. Our partnership with LLEP (Leicester and Leicestershire Local Enterprise Partnership) continues to yield added value to the workstream. The inspection templates, which they own, are designed to encourage LA officers to inspect for compliance with social responsibility code compliance as well as other aspects of a premises. They have recently been updated to incorporate LCCP changes. We are aware that the uptake of the templates is increasing through the feedback we receive and when joint visits are organised compliance managers introduce licensing officers to them when necessary..
24. We continue to invest in shared regulation work in Scotland in order to address the drafting error in the Act regarding the powers of officers in Scottish licensing authorities⁵. As part of this investment the Commission has appointed Patrick Browne as the (part-time) shared regulation representative in Scotland. We made submissions to Scottish Government and Glasgow City Council regarding betting shops and B2 machines (in particular the concern they expressed about stakes and prize levels on the machines). During discussions concerning the findings of the Smith Commission (regarding Scottish devolution proposals) we highlighted the remedies available to correct the drafting error in Act regarding the powers of officers in Scotland. We have recently published a revised version of our Advice Note on this subject which elaborates our understanding of the role of ‘authorised persons’ in Scotland which has been disseminated to key stakeholder groups in Scotland such as COSLA and SOLAR and additionally at a recent national licensing conference. The note is, however, not going to satisfy a number of Scottish LAs as to their legal position and there will be an ongoing need to encourage engagement in shared regulation in Scotland.

Next steps and issues

25. The main focus of the workstream for the remainder of 2015 through to 2016 will be to engage with the key LAs who are not currently balancing income and expenditure in terms of gambling regulation.
26. Work continues to embed the key messages from the GLA and to encourage a consistency of approach to the major issues over the next 12 months
27. Also, in order to focus on those vulnerable to gambling related harm, as represented in our most recent changes to the LCCP and in the Geofutures report⁶, we will be

⁵ Due to the fact that licensing boards in Scotland have no employees, unlike licensing authorities in England and Wales, the problem is as to which officers have the powers to conduct gambling inspection and compliance.

⁶ Copy attached

encouraging both at a national and a local level, engagement with agencies such as public health and safeguarding boards.

28. Profiles and operator local risk assessments will be an iterative process. We are already aware of various misunderstandings. We have had queries and comments from operators and their trade associations as to the legality/suitability of some LAs Statements and their perception that regulatory tools such as licence conditions are going to be applied in an arbitrary fashion. Equally, with one or two exceptions, we have yet to see how LAs develop their local area profile and how useful a tool this is focussing on vulnerability.
29. We will continue to monitor closely the effects of LA spending cuts on local gambling regulation – such issues as the merger of services, loss of experienced staff and the potential outsourcing of functions – which may have a major impact on the nature of the shared regulation of the Act. We are currently conducting further research regarding the larger LAs whose compliance activity is very low.
30. The workstream’s current engagement with both national bodies in Scotland such as COSLA and SOLAR, as well as Police Scotland, Scottish Government and Westminster in order to both correct the current anomaly in the Act as well as improve LA participation in regulation will be maintained. More specifically we will continue to press Westminster for a correction to the wording of the Act to remove any ambiguity as to LA powers, to encourage Police Scotland to use their powers under the Act and to engage LAs in compliance and enforcement activity locally.
31. As we have recognised, the revisions to the LA Statement of Principles, local area Recommendations
32. The Board is invited to note this update on shared regulation.