

Summary of proposed changes to the draft statement of licensing policy under the Gambling Act 2005

General

We have made a number of changes to our current policy as follows:

- Changed the layout and style of the Policy to make it more accessible and easier to understand.
- Updated the Policy to incorporate changes in the law and national guidance and to update certain references and terms.
- Removed sections of the current policy that were out of date or no longer relevant.
- Included a number of substantive changes as shown in the table below.

Substantive changes

Part 1 - Introduction	New heading containing the introduction to the Policy and sub-sections
Sub-section	Changes

GUIDANCE TO LICENSING: CHANGES TO THE GUIDANCE FOR LICENSING AUTHORITIES, APRIL 2021 UPDATE

Published: 1 April 2021; Last updated: 13 May 2021

Added Part 1 - General guidance on the role and responsibilities of licensing authorities in gambling regulation - Primary legislation - 1.14 & 1.19

1.4 The Commission works in partnership with licensing authorities to regulate gambling. In doing so, the Commission will tend to focus on operators and issues of national or regional significance, and licensing authorities will take the lead on regulating gambling locally. The Commission and licensing authorities 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. **Inserted new 1.4**

1.19 The Gambling Act 2005 permits the advertising of gambling in all forms, provided that it is legal and there are adequate protections in place to prevent such advertisements undermining the licensing objectives. The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising. It enforces the UK Advertising Codes (the Codes), written by the Committees of Advertising Practice. The Codes cover the content and placement of advertising and are designed to ensure that advertisements for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited. The Codes also require that advertisements for gambling products or services do not mislead. Any complaint about the content and placement of advertising or marketing communications should be sent directly to the ASA. **Inserted new 2.8**

Added Part 16: Gaming machines - The meaning of 'available for use' - 16.17, 16.18, 16.19, 16.20, 16.21, 16.22, 16.23, 16.24, 16.25 and 16.26

16.16 S.242 of the Act makes it an offence for a person to make a gaming machine available for use, where they do not hold an operating licence or other permission covering gaming machines and where no other exemption applies.

16.17 The Act does not define what 'available for use' means, but the Commission considers that a gaming machine is 'available for use' if a person can take steps to play it without the assistance of the operator.

16.18 More than the permitted number of machines may be physically located on a premises but the onus is on licensees to demonstrate that no more than the permitted number are 'available for use' at any one time.

16.19 A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines 'available for use' at a higher category until it switches to that category. Licensees must ensure no more than the permitted number are 'available for use' at any one time.

16.20 Systems in which a number of machines are networked so that the player can select which game and category they play are permitted but licensees must still adhere to any restrictions on the number of machines at a certain category.

16.21 Gaming machine entitlements in AGC or bingo premises set out that only 20% of machines can be category B machines in order to ensure a balanced offering of gambling products and restrict harder gambling opportunities.

16.22 Machine design has changed in recent years and space-saving gaming machines - in the form of tablets, multi-player units and narrow/in-fill machines - have become available. Some of these machines appear to have been designed primarily to maximise category B machine entitlements.

16.23 We updated our 'available for use' guidance¹¹ in 2019 to make it clear that for the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. For example, the Commission would consider that a multi-position machine that technically allows two or more players to play simultaneously but in reality requires those players to stand very closely together or adopt unnatural participation positions, to the effect that a second player would be discouraged from attempting to use the machine, could not be classed as two or more machines.

16.24 In relation to tablets, licensees should ensure that there is sufficient floorspace in the premises to permit counted tablets to be used simultaneously.

16.25 Electronic Bingo Terminals (EBTs) that offer gaming machine content in addition to bingo content are gaming machines and subject to adherence with the above principles. Licensees are reminded however that an EBT must only allow participation in one gambling activity at a time and should not therefore contain functionality which allows participation in bingo and gaming machine activity simultaneously.

16.26 We have published our 'available for use' guidance¹² on the Commission website, and provided additional information specifically in relation to when is a gaming machine 'available for use' in AGC or bingo premises under the 20% regulations.

Inserted new 1.33-1.41

Added Part 17: Casinos - Controlling where gaming machines may be played – casino - 17.58

17.58 The current regulatory framework prescribes that Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment. In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed as a casino is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for casino games and/or games of equal chance. [Inserted new 1.42](#)

Added Part 18: Bingo - Gaming machines - 18.8

18.8 S.172(7), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007 (opens in new tab)) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets. **Inserted new 1.43**

Added Part 19: Betting premises - Gaming machines - 19.5

19.5 S.172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines (the terminals commonly in use are able to provide both B2 and B3 content). **Inserted new 1.44**

Added Part 21: Adult gaming centres - Self-exclusion - 21.4

21.4 Social Responsibility Code Provision 3.5.6 requires that all non-remote casino and bingo and betting licences (except those at a track) and holders of gaming machine general operating licences for adult gaming centres must offer self-exclusion schemes to customers requesting such a facility. There is also an Ordinary Code provision at 3.5.7. The full details can be found within the LCCP. **Inserted new 1.45**

Added Part 34: Small society lotteries - Application and registration process for small society lotteries - 24.29?

34.29 Additional information is available to assist licensing authorities with society lottery applications. This can be found within our Feature article: Small society lottery applications – things to consider. Please note this article does not form part of the Guidance to licensing authorities. **Already included at 7.5**

Added Appendix I: Glossary of terms – OPSS

Pages 231 & 232 of Guidance. **Inserted in Glossary**

Amended Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation: Co-ordination and contact – 1.10

1.10 The Commission works with national bodies such as the Local Government Association (LGA) (opens in new tab), The Institute of Licensing (IoL) (opens in new tab), The Convention of Scottish Local Authorities (COSLA) (opens in new tab), the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) (opens in new tab), The Welsh Local Government Association (WLGA) (opens in new tab) and others to share intelligence and good practice as well as regular updates on gambling related matters. The Commission also provides a regular update via the LA Bulletin, e learning modules, a dedicated section of the website, inspection templates and quick guides. Resource permitting we offer support for specific cases of compliance and enforcement as well as the delivery of training and awareness raising sessions throughout GB. **No changes necessary**

Amended Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation: Primary legislation – 1.18

1.18 In addition, the Gambling (Licensing and Advertising) Act 2014 (opens in new tab) came into force on 1 November 2014 and amends the Act. It requires remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers. The Act (as amended) has implications for remote operators and does not impact the powers or authority of licensing authorities. **Inserted new 6.48**

Amended Part 2: The licensing framework – Introduction - 2.3

2.3 Licensing authorities have responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in clubs and miners' welfare institutes. In England and Wales, local authorities have these responsibilities; in Scotland they have been given to licensing boards. The Act also provides a system of temporary and occasional use notices. These enable licensing authorities to authorise premises that are not licensed generally for gambling purposes, to be used for certain types of gambling for limited periods. Parts 14 and 15 provide more information on temporary and occasional use notices. **Inserted at end of 5.1**

Amended Part 3: The Gambling Commission - Main functions of the Commission - 3.5

3.5 The Commission also has a duty to advise the Secretary of State on gambling and its regulation. To ensure that the Commission is well placed to provide such advice, it monitors developments in gambling in Great Britain and in other jurisdictions. It works closely with a range of regulatory partners, including licensing authorities, the Advertising Standards Authority (opens in new tab), the Information Commissioner's Office (opens in new tab), Ofcom (opens in new tab), and with stakeholders including the industry itself, faith and community groups, those with lived experience of gambling harm, government departments and bodies working in the field of gambling research. **No changes necessary**

Amended Part 3: The Gambling Commission - Relationship between the Commission and licensing authorities - 3.9 and 3.10

3.9 In addition to the Commission's LA bulletin that provides a summary of the key issues affecting licensing authorities, we also provide support and guidance on specific issues at forums and training events. The Commission also produces e learning modules, inspection templates and quick guides.

Resource permitting we offer support for specific cases of compliance and enforcement as well as the delivery of training and awareness raising sessions throughout Great Britain.

3.10 At a headline and strategic level, the Commission meets regularly with national bodies such as the Local Government Association (LGA) (opens in new tab), the Convention of Scottish Local Authorities (COSLA) (opens in new tab), the Welsh Local Government Association (WLGA) (opens in new tab), the Society of Local Authority Lawyers and Administrators (SOLAR) (opens in new tab), and the Institute of Licensing (IoL) (opens in new tab). These meetings provide opportunities to discuss issues of concern, emerging trends and this guidance.

No changes necessary

Amended Part 6: Licensing authority policy statement - Local risk assessments - 6.44

6.44 The SR provision is supplemented by an ordinary code provision indicating that licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority. Both provisions took effect from April 2016. **Added at beginning of 4.4**

Amended Part 6: Licensing authority policy statement - Consultation process - 6.58

6.58 S.349(3) of the Act requires licensing authorities to consult with the following on their policy statement or any subsequent revision:

- in England and Wales, the chief officer of police for the authority's area
- in Scotland, the chief constable of the Police Scotland
- one or more persons who appear to the authority to represent the interests of persons carrying on
- gambling businesses in the authority's area
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

Already included

Amended Part 7: Premises licences - Applications - 7.41

7.41 An application for a premises licence may only be made by persons (which includes companies or partnerships):

- who are aged 18 or over and
- who have the right to occupy the premises and

- who have an operating licence which allows them to carry out the proposed activity. Details of
- operators that hold an operating licence are available on the Commission's website or
- who have applied for an operating licence to allow them to carry out the proposed activity. The
- premises licence cannot be determined until an operating licence has been issued.

Inserted new 5.4

Amended Part 8: Responsible authorities and interested parties definitions - Responsible authorities - 8.8

8.8 The Secretary of State and Scottish Ministers may prescribe other responsible authorities by means of regulations. Added to 3.7

Amended Part 9: Premises licence conditions - S.179 – Pool betting - 9.16

9.16 S.179 provides that a betting premises licence in respect of a track may not authorise pool betting to take place, other than in respect of dog or horse racing and only where the acceptance of bets is by the holder of the betting premises licence, or in accordance with arrangements made by them. In the case of dog racing, this preserves the existing arrangements at dog tracks where the totalisator is operated by or on behalf of the occupier of the track. Inserted new 5.25

Amended Part 15: Occasional use notices - Introduction - 15.1

15.1 S.39 of the Act provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an OUN without the need for a full premises licence. The Secretary of State has the power to increase or decrease the number of occasional use notices that an operating licence holder could apply for each calendar year. Added to 6.36. 'Day' is defined as midnight to midnight, so an event that starts on one calendar day and ends on the following day would count as two days. OUNs are designed to allow licensed betting operators to provide betting facilities at genuine sporting events (such as point-to-point racecourses and golf courses for major competitions) within the boundaries of the identified venue on a specific date, without the need for a full betting premises licence. An OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The following should be noted in relation to an OUN:

- OUNs can only be relied upon for eight days or fewer in a calendar year and therefore licensing authorities should keep a record of the number of notices served in relation to each track. The period of eight days applies to the venue and not the individual who has submitted the notice.
- an OUN must be submitted for each day that betting activity will be conducted on the premises. If betting activity is to be held over a period of eight consecutive days, the operator will be required to submit eight separate notices.
- the notice must specify the day on which it has effect. An event running past midnight and ending on the following day accounts for two occasional use days, even though in practice it is one event.
- no objection or counter notice (refusal) is possible unless the maximum number will be exceeded.

- notice must be given to the licensing authority and the police, in writing, before the event starts.
- no premises licence can exist for the place which is the subject of the notice.
- land can be used temporarily as a track, for example for a point-to-point race, provided that sporting events or races take place there. There is no need for a track to be permanently established.

Inserted new 6.37-6.45

Amended Part 15: Occasional use notices - Use (and misuse) of OUNs 15.4

15.4 Local sporting clubs or other venues seeking to become tracks through a contrived sporting event have utilised OUNs to solely or primarily facilitate betting taking place on events occurring away from the identified venue, examples include the Cheltenham Festival and Grand National meeting. Whilst we have not introduced a new licence condition limiting the betting to the outcomes of a race, competition or other sporting event taking place at the track in question whilst the OUN is in force, the situation is being kept under review.

No changes necessary

Amended Part 18: Bingo - Gaming machines - 18.8

18.8 S.172(7), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007 (opens in new tab)) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets. **Inserted new 1.43**

Amended Part 20: Tracks - Definition of a track - 20.5

20.5 The Act does not define what constitutes a sporting event or race and licensing authorities will need to decide this on a case by case basis. The Commission is aware of some instances of the apparent misuse of occasional use notices (OUNs). Local sporting clubs or other venues seeking to become tracks through a contrived sporting event have utilised OUNs to solely or primarily facilitate betting taking place on events occurring away from the identified venue, examples include the Cheltenham Festival and Grand National meeting. Whilst we have not introduced a new licence condition limiting the betting to the outcomes of a race, competition or other sporting event taking place at the track in question whilst the OUN is in force, the situation is being kept under review. Further details can be found in Part 15. **No changes necessary**

Amended Part 20: Tracks - Betting on tracks - 20.16, 20.18, 20.19 and 20.20

20.16 There are various types of betting which take place in relation to tracks.

On-course betting

20.17 The on-course betting operator is one who comes onto the track, temporarily, while races or sporting events are taking place. On-course betting operators tend to offer betting only on the events taking place on the track, that day. For example, betting operators attending horserace and greyhound racing meetings will only attend on race days. Similarly, betting operators at cricket and football grounds are only likely to attend on days when matches are taking place.

20.18 Betting on tracks is organised in different ways and can take place in different parts of the track in many different forms. These include the following: 'Betting rings' The ring can be dispersed throughout the track, and can include 'temporary' rings at large meetings, but all different locations form part of the betting area. On-course betting operators will be located in the betting ring according to a position (pitch) allocated to them under the commercial arrangement they have with the track owner.

Betting counters or kiosks

A betting counter or booth may be a permanent or temporary outlet from which a bookmaker provides betting facilities. Examples include manned stands or porta-cabins located at football grounds on match days, and the temporary kiosks used by bookmakers at cricket grounds during test matches.

Mobile betting

Mobile betting machines (often handheld) operated by employees of betting operators allow customers to place a bet or receive payouts away from betting kiosks or the betting ring, most commonly in hospitality areas.

Self-service betting terminals (SBBTs)

SSBT, described in paragraph 19.6, lack the direct human intervention of a betting counter staffed by a cashier, and can be located at different parts of tracks. See below more details on SSBTs at tracks.

Pool betting

This involves the pooling of stakes on a given event, and the splitting of the total pool, less a commission for the operator amongst the winners. Pool betting at horseracing and greyhound tracks can be offered under a pool betting operating licence – be that the owner of the track or a third party provider. Tracks may also conduct inter-track pool betting when other tracks are holding races.

Off-course betting

20.19 Off-course betting operators are typically those who provide betting facilities from betting premises such as those found on the high street. In addition to such premises, betting operators may operate self-contained betting premises or designated areas such as a row of betting kiosks within the track premises. These premises provide facilities for off-course betting (in effect, the opportunity to bet on other events not just those taking place on the track), although they normally operate only on race days.

Inserted 5.23

20.20 The provision of off-course betting facilities as described above is generally conducted in reliance on the track premises licence held by the occupier of the track and consequently the off-course operator is prohibited from making any gaming machines available for use unless they hold a separate betting premises licence in relation to part of the track. The track

premises licence holder will need to vary their existing premises licence so that it does not have effect in relation to the area where the additional betting premises licence is located. The additional betting premises licence would need to be secured by the holder of an appropriate betting operating licence. Such a premises would then be subject to the conditions outlined in Part 19.

Inserted 5.24

Amended Part 20: Tracks - Applications - 20.55

20.55 Licensing authorities should be aware that there is an anomaly in the Act, wholly prohibiting the employment of children and young people on tracks.

Added to end of 5.22

Amended Part 20: Tracks - Pool betting - 20.64

20.64 By virtue of s.179 of the Act, a track premises licence may only authorise the acceptance of bets by way of pool betting on horseracing or dog racing, and if the bets are accepted by the holder of the track premises licence or in accordance with arrangements made by him. Additionally, pool betting on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect (SI 2007/1409: Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (opens in new tab), Schedule 6(3)(1)).

Inserted new 5.25

Amended Part 21: Adult gaming centres - Gaming machine - 21.5

21.5 Gaming machine provisions by premises are set out at Appendix A. S.172(1) of the Act, as amended, provides that the holder of an AGC premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on those premises.

Have not made any changes. Unsure whether this amends 5.31 (old 5.28)?

Amended Part 24: Unlicensed family entertainment centres - Introduction - 24.2

24.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available (S238 Gambling Act 2005 (opens in new tab)). As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.

Added to 6.3

Amended Part 25: Clubs - Permits - 25.54

25.54 Licensing authorities should note that, as a consequence of the Gambling (Licensing and Advertising) Act 2014 (opens in new tab), there is a requirement on remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers.

Included in new 6.48

Amended Part 29: Poker - Advertising - 29.52

29.52 The Gambling (Licensing and Advertising) Act 2014 (opens in new tab) amended the Act so that from 1 November 2014, gambling operators that provide facilities for remote gambling requires remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers.

Included in new 6.48

Amended Part 34: Small society lotteries - Application and registration process for small society lotteries - 34.40 and 34.41

34.40 Licensing authorities are required by paragraph 44 of Schedule 11 of the Act to record details of the society on a register. While it does not have to be a public register, the Commission recommends that licensing authorities make the register available to the public on request.

Already included in 7.8

34.41 Once the application for registration has been accepted and entered on the local register, the licensing authority must then notify both the applicant and the Commission of this registration as soon as practicable.

Inserted new 7.9

Amended Part 36: Compliance and enforcement matters - Powers of entry in Scotland - 36.18, 39.19 and 36.20

36.18 In Scotland, the relevant licensing authority is called a licensing board. The powers of licensing boards are the same as to those of licensing authorities in England and Wales.

36.19 However, the wording of s.304(2) of the Act has created an anomaly in Scotland where the equivalent of a licensing officer is a licensing standards officer (LSO). Although s.304(2) of the Act was intended to provide licensing authorities with the opportunity to empower licensing authority staff already involved in licensing, it does not specifically apply to licensing standards officers in Scotland who are not directly employed as officers of the licensing authority but rather by the local authority. The licensing boards are separate and LSOs are deliberately legally separated from the boards.

36.20 S.304(3) and (4) of the Act provide licensing authorities in Scotland with the opportunity to empower LSOs and council staff involved in other regulatory roles, such as trading standards officers and environmental health officers, to exercise the powers of authorised persons under the legislation. Indeed, council staff like environmental health officers are already authorised persons under the Act by virtue of the legislation they enforce.

No changes necessary

Amended Part 36: Compliance and enforcement matters - Illegal gambling - 36.25

36.25 Dealing with illegal poker or illegal/illegally sited machines in a specific premises often lends itself to a multi-agency coordinated approach with licensing authority officers leading the operation and the police and sometimes HMRC (opens in new tab) providing support, advice and expertise. Licensing officers should contact the Commission in the first instance to agree if such a multi-agency approach would be appropriate.

Added 'multi-agency' in 9.5

Amended Part 36: Compliance and enforcement matters - Test purchasing and age verification - 36.32

36.32 Local authorities should also consult with the Commission before planning such exercises in order to ensure that there is no conflict between any ongoing investigation or enforcement activity related to either the premises or the operator that we have initiated and the test purchase operation. Local authorities in England and Wales are also subject to PA arrangements.

Inserted new 9.7

Amended Appendix I: Glossary of terms - DCMS changed to Department for Digital Culture Media and Sport

Added to Appendix C - Glossary

Removed Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation - Co-ordination and contact - 1.11 and 1.12

No changes necessary

Removed Part 13: Information exchange - Information the Commission makes available to licensing authorities - 13.18

No changes necessary

Removed Part 16: Gaming machines - The meaning of 'available for use' - 16.17, 16.18, 16.19, 16.20, 16.21 and 16.22

No changes necessary

Removed Part 29: Poker - Advertising - 29.53 and 29.54

No changes necessary

Removed Part 36: Compliance and enforcement matters - Illegal gambling - 36.22

No changes necessary

Removed Appendix I: Glossary of terms – BRDO

Not included in policy anyway