

APPENDIX 3

Power Leisure Bookmakers Limited response to Tameside Metropolitan Borough Council's Consultation on its draft Statement of Gambling Principles 2022-2025

Paddy Power is Ireland's biggest Bookmaker and operates both as retail business through licensed betting offices and an online/telephone business. Paddy Power is a leading national operator of betting premises with clear and proactive policies to promote the Gambling Licensing Objectives. Operators of premises licences have full authority to provide their services by the provision of an Operating Licence granted by the Gambling Commission. The UK's gambling regulator has therefore approved the measures implemented and those policies have been developed that ensure responsible trading in accordance with gambling legislation, the licensing objectives and the Licence Conditions and Codes of Practice. Of particular relevance are the obligations and requirements now placed upon operators under the social responsibility provisions of the LCCP, introduced by the Gambling Commission.

Foreword

We strongly disagree with the commentary included in the draft policy as it does not appropriately identify the permissive regime envisioned by Parliament and implemented by the Gambling Act 2005. Comments relating public health, and the imposition of additional obligations/conditions placed on operators fail to consider the extensive social responsibility provisions now contained in the governing legislation. The Authority's policy, as per section 349 of the Gambling Act 2005, should contain the principles that it proposes to apply in exercising its functions under the Act, it is therefore not an appropriate document to contain additional commentary, which is beyond the scope of the policy's function, and it should be removed.

3.11 Public Health

'For every person who gambles, it is estimated that between six and ten people are 'affected others' and experience similar harms. These may be dependents, parents, partners, friends or colleagues.'

'Anyone who gambles is vulnerable to harm.'

'It is estimated that for every day of the year, one person takes their own life as a result of gambling disorder.'

The above statements provide no supporting evidence and are inflammatory. We value local data that helps to identify and provide evidence of local risks of harm associated with gambling as this assists licensees to develop and apply appropriate and proportionate measures to mitigate risk and uphold the licensing objectives. Commentary must be based on current evidence rather than broad, generic statements or macro-societal trends that may have little to no relevance regarding the immediate local area.

We suggest that these sections/comments are speculative and misleading as they are based on hypothetical and unquantifiable risks that could potentially arise from gambling. Suggestions that all gambling is harmful does not consider empirical evidence that the significant majority of individuals that participate in gambling do so in a responsible manner without harm. It is not the licensing authority's role to limit gambling rather than 'aim to permit' gambling that is in accordance with the relevant codes of practice and guidance issued by the Gambling Commission and is reasonably consistent with the Licensing Objectives.

The third licensing objective places a fundamental obligation on all operators to ensure that the appropriate policies, procedures, and safeguards are in place to mitigate any of these potential risk factors.

3.43 Premises ‘ready for gambling’

Paragraph 3.40 states: *‘If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.’*

This statement requires updating following the case of R (on the application of) Betting Shops Services Limited-v-Southend-on-Sea Borough Council [2008] EWHC 105 (admin). Other than the right to occupy, there is no legal reason preventing an operator from applying for a premises licence and we therefore suggest that this section is amended to reflect this.

See also the guidance issued within the Guidance to Licensing Authorities 5th edition at paragraph 7.64: *“If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, a licensing authority ought to consider whether – applying the two-stage approach advocated above – it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. Licensing authorities may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for an application that the licensing authority did not think was grantable.”*

5.25 Preventing gambling from being a source of crime or disorder

‘In addition to the need to consult a local Crime Reduction Officer, the operators of new premises/premises undergoing a refurbishment should also engage with the police’s architectural liaison unit at the design stage to ensure crime prevention and detection.’

Whilst operators are under an obligation to provide risk assessments for their premises and update these for any material changes that may affect the level of risk, the need to consult an officer over what may be a simple refurbishment (e.g., upgrading the premises/furniture etc). is disproportionate to what is required. Where there is no impact on the licensing objectives and changes are insignificant in that regards, it would not be rational to impose an obligation on operators to consult a Crime Reduction Officer each time any insignificant change is made.

It is incumbent that operators ensure they assess the risks, and that premises are appropriately supervised as required by the Licensing Conditions and Codes of Practice (LCCP) attached to all operating licences. Any failure to do so would be a breach of the LCCP and potentially place the operating licence and premises licence at risk.

6.27 and 6.28 Betting premises and Gaming machines

‘The licensing authority is concerned that later opening hours will attract the more vulnerable, such as those who are intoxicated or who have gambling addictions. The licensing authority also has concerns that licensed betting premises operators may seek to extend the permitted hours for the primary purpose of making gaming machines available to customers for longer.’

As a consequence, the licensing authority is unlikely to grant variation of hours' applications unless applicants can demonstrate that robust measures will be in place to protect the vulnerable and the additional hours are not being sought to take advantage of the gaming machine entitlement'.

This statement has no supporting evidence and cannot impose an obligation on licensees to validate their day-to-day operation. Whilst betting facilities may not be offered between the hours of 22:00 and 07:00 under the default provisions provided by the legislation, Parliament has prescribed that the number and type of gaming machines permitted by a betting premises licence is a legal entitlement. Primary gambling activity or purpose is an outdated concept and incorrect legal test. Social responsibility Code 9.1.1(2) prescribes that gaming machines may be made available for use where substantive facilities for non-remote betting are made available. It is not within an authority's power to prescribe an operator's business model or the facilities being used provided that appropriate safeguards are implemented in accordance with the legislation, regulation and Licence Conditions and Codes of Practice.

It is not within the authority's discretion to restrict the legal activities permitted by a licence without robust evidence to support any such restriction. Furthermore, the authority has offered no current or local evidence to support this statement in suggesting that gambling is more attractive to vulnerable persons at later hours of the day, or more so than at any other time, or that appropriate control measures cannot be implemented to mitigate any such risk.

Whilst the authority has every right to exercise its function in controlling where gaming machines may be played, this does not extend to a prescriptive requirement mandating all Betting premises to suspend business or provide a justification for the business activities proposed. Operators are under a requirement to uphold social responsibility and will risk assess any potential concerns that may arise from activity within their premises, including any risk that may be realised during later hours of operation. Paddy Power has effective policies and procedures to manage their premises accordingly and always ensures that there is close supervision and familiarity within their business.

Please see the Gambling Commission's Guidance to Licensing Authorities at paragraph 5.31, which directs authorities to consider conditions, where necessary and proportionate to do so, and 5.34, that provides *'In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met'*. To demonstrate requires evidence.

Conclusion

We are committed to working in partnership with the Gambling Commission and local authorities to continue to promote best practice and compliance in support of the licensing objectives. We look forward to discussion on the proposed Statement of Principles with you.