

**From:** Lucy Knighton [<mailto:lucy@bcsagency.com>]

**Sent:** 04 September 2015 14:52

**Subject:** Re: Submission from the Campaign for Fairer Gambling for the review of the Gambling Act 2005 Statement of Principles 2016/19

Date: 04 September 2015

Dear Council Leader,

**Re: Submission from the Campaign for Fairer Gambling for the review of the Gambling Act 2005 Statement of Principles 2016/19**

As leader of the council, you will know that Licensing Authorities are required under the Gambling Act 2005 (the Act) to publish a statement of the principles which they propose to apply when exercising their functions in respect of gambling activity within their borough.

Under the Act, Licensing Authorities are required to consult those who represent the interests of persons who are likely to be affected by the exercise of the authority's functions. The [Campaign for Fairer Gambling](#) in conjunction with its more focused [Stop the FOBTs campaign](#) has prepared this consultation submission for the consideration of all Local Authority licensing committees with particular regard to dealing with the contentious issue of betting shops and Fixed Odds Betting Terminals (FOBTs/B2 classified gaming machines).

**We would appreciate if you could share the important contents of this mailing with your Chief Licensing Officer.**

Under the Act, Licensed Betting Offices (LBOs) are allowed a maximum of four B2 category gaming machines offering game content defined as B2 with stakes up to £100 per spin, B3 with stakes up to £2 per spin and category C with stakes up to £1 per spin. Also, the bookmakers have merged two game categories (B2 and B3), so in betting shops you can play a low stake £2 capped slot game that suddenly introduces the player to £10, £20, £30 plus stakes per spin.

Despite increasing evidence of the destructive social impact of high speed, high stake casino gaming in betting shops at stakes up to £100 per spin, the previous coalition government and the current Conservative government have failed to take either decisive or effective action to curb FOBTs.

The recent government response to [93 Councils led by Newham](#) calling for the stakes on FOBTs to be cut to £2 per spin laid the blame for the issue of proliferation of betting shops in town centres and consequently FOBTs, at the door of licencing authorities. Marcus Jones MP, Minister for Local Government, wrote:

*"It is perhaps an uncomfortable reality that every one of the betting shops that collectively have given rise to the concern at the heart of the submission relies on a premises licence granted by the local authority itself".*

He goes on to advise councils of their existing powers under the licensing process, which many local authorities already recognise as limited in scope.

However, he points to "few" local authorities having so far "made effective use of a provision of the Act that we see as being absolutely critical in managing the local gambling landscape". With this statement he is referring to the three year review of local gambling policy now under way across England, Scotland and Wales by local authorities such as yours.

In his letter to Newham, Marcus Jones MP, criticises councils for drafting “generic” and “template” based statements and that the Gambling Commission “will be placing much greater emphasis on the importance of the statements”.

The Campaign for Fairer Gambling has prepared this submission for consideration as part of your review, taking into account the Minister’s advice and focusing on the most prominent issue of contention for licensing authorities – licensed betting offices and the Fixed Odds Betting Terminals they operate.

## **Enforcement**

The main enforcement and compliance role for a licensing authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. One strategic methodology to measure compliance is to commission [test purchasing](#) of premises and staff employed on those premises to transact gambling.

The Gambling Commission (the Commission) notes that “*it is the responsibility of operators to manage the risks to the licensing objectives that their activities may present*”. Licencing authorities are rightly empowered to undertake test purchasing to ensure measures are being implemented effectively. Under guidance from the Commission, test purchasing to evaluate the effectiveness of measures in place on licensed premises concerning self-exclusion, under age controls, anti-money laundering policies and procedures are within the remit of a licensing authority.

However, in the period 2013/2014 across the whole of England, Scotland and Wales, of the two most highly represented licensed premises in high street locations – licensed betting offices (LBO) and adult gaming centres (AGC) - just 825 instances of test purchasing were recorded as being carried out by licensing authorities. To put this in context 599 (6%), of the 9,137 betting shops (to March 2014) and 226 (14%) of the 1,618 AGCs were subject to test purchasing by licensing authorities. Only 37 Councils carried out test purchasing last year.

In most cases, test purchasing focuses on the “protection of the vulnerable” licensing objective and consists of tests for under age access to gambling on licensed premises. However, the Commission is clear that the scope of test purchasing should include the effectiveness of self-exclusion procedures and anti-money laundering controls as well as under age controls. Money laundering in particular has been repeatedly highlighted as a particular area of concern around FOBTs both [low level](#) and more [highly-organised incidents](#) that revealed serious weaknesses in operator controls.

## **Premise Licence Conditions**

The Minister for Local Government, in his negative response to the Newham-led call for stakes on FOBTs to be cut to £2 per spin, said: “*The licensing process gives authorities considerable scope to attach conditions to licences where that is necessary to achieve the licensing objectives*”.

The tenth betting shop to open in London’s China Town was subject to attached conditions by the Licencing Authority following concerns from the local community and representations from the Police. They included:

- A. Seating provided for use by customers whilst playing FOBTs must be secured to the floor – this is viewed as anticipating [aggressive behaviour](#) from FOBT players who suffer large losses
- B. a comprehensive CCTV system covering internal and external frontage with immediate availability to the police must be fitted
- C. an incident log of all incidents on the premises must be kept
- D. minimum 11.5 mm thickness security glass must be fitted to the service area

- E. a “behind the counter” attack alarm must be fitted and each member of staff must be issued with and required to carry on their person a personal fob attack alarm
- F. maglocks fitted to entrance and exit points and even toilet doors.
- G. a minimum of two staff to be present post 8 pm in the evening.

Whilst these measures have some merit in addressing the potential incidents that now occur in betting shops, they are indicative of an escalation in anti-social behaviour as a consequence of gambling activity in these licensed premises. In the first nine months of 2014, Police call outs to betting shops were already up by over 20% on the previous year.

The one condition that Licencing Authorities seem hesitant to impose and, when they do - as per Westminster - is done in a relatively lack lustre manner, is requiring an adequate number of staff on the premises. The number of people employed in the betting sector has fallen by 9,700 since 2008. The industry now staffs most LBOs with just one person. This is particularly risky for staff and undermines industry claims to be promoting “responsible gambling” and “player protection measures” when they absolve responsibility for their premises to one person, generally young and female, working for not much more than minimum wage levels.

No other gambling sector employs lone staffing as a standard policy. It is perceived as irresponsible to leave licensed premises, on which gambling is transacted, under the management and operation of one person. It is within the remit of licencing authorities to impose minimum staffing levels as a condition attached to LBO premises licences.

Locally determined conditions are recommended by the Commission who says: *“Where there are specific, evidenced risks or problems associated with a particular locality, or specific premises or class of premises, a licencing authority will be able to attach individual conditions to address this. That will be a matter for them in the light of local circumstances.”*

However, unlike the conditions attached to the new Soho betting shop that deal with issues that predominantly occur inside the premises, often disturbances occur outside the premises, causing a nuisance for other businesses or residential occupiers. Acts of vandalism against betting premises, youths gathering outside and anti-social behaviour upon leaving betting shops are common cause for concern and complaint. However, Licensing Authorities are unable deal with these issues under their licensing responsibilities. As the Commission notes: *“Unlike the Licensing Act, the Gambling Act does not include, as a specific licencing objective, the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant legislation.”* Hence the imposition of conditions to deal with problems emanating from betting shops but occurring outside of the premises is limited in scope.

It is estimated [over 100 betting shops per week suffer attacks on FOBTs](#) with very few instances being reported to the Police. These are criminal acts of vandalism always occurring as a consequence of heavy cash losses from FOBT usage. As Licensing Authorities are responsible for gambling activity that takes place on the premises it is perfectly warranted for a condition to be attached to individual or all licensed premises under the licencing authorities’ remit, for the recording and reporting of all such incidents. This would not be considered a regulatory burden and is in keeping with the LA responsibility of keeping crime out of gambling.

Despite the Minister for Local Government pointing to conditions as providing “considerable scope”, in the area of greatest concern, that of high stake, high speed FOBTs, a Licencing Authority has no control or powers. Section 172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers, or method of operation and section 171 prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

Section 181 of the Act however contains an express power for licencing authorities to restrict the number of *betting machines*, their nature and circumstances in which they are made available for, by attaching a licence condition to a betting premises licence. These are not defined under the act as FOBTs. Section 181 of the Act refers to these machines as “accepting bets on real events” and betting operators now refer to them as Self Service Betting Terminals (SSBTs). Like the introduction

of FOBTs, no controls over numbers per premises have been agreed and it is left to Licencing Authorities, if they see fit, to control their numbers under guidance pertaining to floor space, service counter positions and ability of staff to monitor their use.

There are now estimated to be in excess of 5,000 SSBTs sited in betting shops and this is increasing each month. As with FOBTs, SSBTs are contributing to the further erosion of jobs in betting shops (down 9,700 since 2008) with one operator, Trafalgar Leisure, providing five SSBTs and four FOBTs at each of its licensed premises but they did not offer any human facing over-the-counter betting facilities.

The Gambling Commission lost in their attempt to declare these betting premises as providing “insufficient facilities for betting” and the consequence is that a betting shop will still be a betting shop even if it is used for no other purpose than making machines available for use on premises.

It is essential that Licensing Authorities have particular concern to the development of SSBTs in betting premises and in particular the content made available on what have been deemed “betting machines” and use their powers under section 181 of the Act to control and monitor their proliferation.

**Closing note**

It is clear to Councils and Councillors that their ability to deal with and curb the proliferation of betting shops in town centres and high streets, as well as controlling the quantity of FOBTs available is severely restricted under the 2005 Gambling Act. Despite the Minister for Local Government’s view that licencing authorities are not making sufficient use of existing powers.

It is proposed to give Scotland the power to vary the number of FOBTs in new betting premises and, subject to amendments in the Scotland Bill, this could be extended as a retrospective power. No such power for Licensing Authorities in England and Wales is proposed just a continual reference to “existing powers”.

The view of the Campaign for Fairer Gambling is that the power to vary the number of FOBTs should be devolved to all Local Authorities and their Licensing Committees as is proposed for Scotland. However, it is not the quantity of machines that essentially creates the problem as can be seen from the latest Gambling Commission statistics.

<b>Sector/Machines</b>	<b>Terminals</b>	<b>Yield (millions)</b>	<b>Yield Share</b>
Betting Shops/B2	34,874	£1,613.60	68%
Bingo B3/4/C/D	52,506	£292.24	12%
Casino B1/2/3	2,925	£166.26	7%
AGC B3/4/C/D	50,530	£306.09	13%
<b>Totals</b>	<b>140,835</b>	<b>£2,378.19</b>	

Figures from the Gambling Commission Industry Statistics to September 2014

All gaming machines other than B2/FOBTs are capped at £2 and under per spin. It is the capacity for large losses that is facilitated by such a high staking capacity (£1 to £100 rather than 25 pence up to £2 as on most other gaming machines) that is the core of the problem regarding the B2 casino content.

As part of your Council’s gambling policy over the next three years, we recommend you contain a statement supporting further regulatory action against FOBTs, with greater powers of control devolved to councils.

We urge all councils to support Newham in their action under the Sustainable Communities Act calling for the stakes on FOBTs to be brought in line with all other high street gaming machines at £2 per spin.

If you would like further information, please visit [www.stopthefobts.org](http://www.stopthefobts.org) or contact us at [info@stopthefobts.org](mailto:info@stopthefobts.org) to discuss in more detail.

Yours sincerely,

Derek Webb

Adrian Parkinson

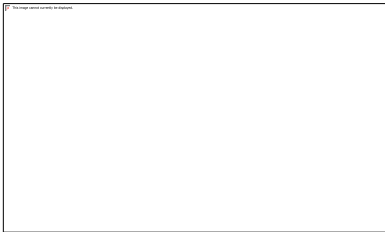
Matt Zarb-Cousin

The Campaign for Fairer Gambling  
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