

# GAMBLING COMMISSION

## Guidance to licensing authorities 5<sup>th</sup> edition

Consultation responses form: March 2015

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**1.1** Please use this form to record your views on the Commission's review of the Guidance to licensing authorities 5<sup>th</sup> edition

**1.2** All responses should be sent by email to [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk) by 22 June 2015.

Alternatively, responses can be sent by post to:

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**1.3** If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body

Government body

Local authority

Regulatory body

Charity

Help group

Faith group

Academic institution

Other

Please specify:

Licensing Board

**1.4** If you are responding as an individual, please indicate your own interest:

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[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## Specific minor changes to the Guidance

### Q1. Do you have any comments on the changes highlighted in paragraph 2.3?

No. These changes appear to be straightforward.

## Specific substantive changes to the Guidance

### Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation

#### Q2. Do you consider that the revisions in Part 1 better reflect the role of licensing authorities in the local regulation of gambling? Are there any other observations you wish to make?

Any clarification on the discretion held by local authorities is welcomed. However we would disagree that authorities have a broad discretion as stated in the revised guidance – any discretion is constrained by the terms of the Act and in particular s.153 which requires authorities to aim to permit gambling in their areas. Accordingly, whilst conditions can be imposed on licences, there would only be exceptional cases where a licence could be refused.

We would suggest that the differences between the jurisdictions are reflected in the revisions. Whilst there is reference to authorities regulating locally, this is not the position in Scotland. The issue of authorised persons in Scotland has been highlighted to the Commission on previous occasions. The Licensing Board is the licensing authority in Scotland in terms of the Gambling Act however the Board does not employ staff. Ultimately no matter what is said in the guidance or supporting notes from the Commission the terms of the Gambling Act prohibit Licensing Boards in Scotland from employing effective enforcement.

There is reference to powers held by authorities under the Licensing Act 2003 however this does not apply to Scotland.

### Part 3: The Gambling Commission

#### Q3. Do the revisions to Part 3 clearly set out the relationship between the Commission and licensing authorities? Are further amendments necessary to improve understanding?

The revisions do not reflect our experience in practice and we had no knowledge of the Local Authority Liaison Unit. We have not to date experienced a collaborative approach from the Commission – if this is the intention going forward then we would support that. If the Commission has any initiatives in this regard we would be interested in considering them.

## Part 5: Principles to be applied by licensing authorities

**Q4. Do the revisions to Part 5 offer greater clarity on the role and responsibilities of licensing authorities in their decision making relating to local gambling regulation? Do you have any other comments or observations on the amendments?**

Again we welcome clarification on the roles and responsibilities of licensing authorities. We however do not consider the discretion afforded to licensing authorities to be as significant as suggested when determining licence applications..

## Part 6: Licensing Authority Statement of Policy

**Q5. Do the revisions to Part 6 give a clear overview of the expectations of licensing authorities' policy statements?**

We welcome the revisions to Part 6. It is clear what is expected of licensing authorities' policy statements.

**Q6. Are there any further revisions to Part 6 which would improve the effectiveness of policy statements?**

**We believe the revisions provide sufficient explanation as to what the Commission expects of licensing authorities.**

**Q7. Are there other areas which the Guidance should detail for inclusion in licensing authority policy statements?**

**No, we believe the content of the guidance covers the statutory requirements for the policy statement.**

**Q8. Does Part 6 sufficiently explain the impact of the new code provisions relating to operators' risk assessments, when considering licensing authorities' policy statements?**

**If it is considered that a local risk assessment is a worthwhile contribution to allow better regulation of the Gambling Industry then we would question why the requirement to provide the Licensing Board with local risk assessments is not mandatory for licence holders. There is nothing the Board can do to compel the licence holder to provide the assessments. This raises questions as to the effectiveness of such documents.**

**Q9. Does Part 6 offer sufficient clarity on the purpose of assessing the risk profile of specific areas within a locality? Are there any additional benefits, or any drawbacks, in licensing authorities undertaking a local area profile?**

**We welcome the fact that the completion of a local area profile is not mandatory. We take the view that in areas where gambling does not present serious social problems that the carrying out of such an exercise may be unnecessary and over-burdensome. At this time it may be considered more prudent to refrain from providing a risk profile until the requirements for such a process is better understood and appropriate for the Board's area.**

## **Part 7: Premises licences**

**Q10. Do the revisions to Part 7 provide sufficient clarity on the meaning of 'premises' and other issues such as access, to facilitate decision making relating to premises licences?**

**We believe that the revised content and layout of the guidance provides greater clarity as to the various types of premises and will be of greater assistance to licensing authorities.**

## Part 9: Premises licence conditions

**Q11. Do the amendments to Part 9 clearly set out the circumstances in which licensing authorities may attach conditions to premises licences?**

We welcome the amendments to Part 9 and note that the circumstances in which conditions can be attached to premises licences are clearly outlined.

**Q12. Do you have any comments on the premises licence conditions provided at Appendix F? Do you have any further examples of appropriate premises licence conditions that either have been, or may be adopted?**

Appendix F may prove a useful addition to the guidance for licensing authorities and to Licensing Board members.

## Part 16: Gaming Machines and Part 26: Premises licensed to sell alcohol

**Q13. Do you have any comments or views on the proposed revisions to Part 16 and 26?**

Clarification on “multiple activity premises” is welcomed.

With regard to the revisions to Part 26 we would disagree with the statement “where breaches of gambling regulations occur, licensing authorities have a powerful lever in securing compliance, due to their ability to review the alcohol licence”. Any action taken by a Licensing Board in Scotland following a review of an alcohol licence must be necessary or appropriate for the purpose of one or more of the alcohol licensing objectives. There must be a connection with the sale of alcohol. Accordingly there will likely be scenarios where a breach of the gambling regulations has nothing to do with the alcohol licensing objectives and cannot therefore form the basis of an action by the Board following a review of the alcohol licence. We cannot therefore envisage many scenarios where a breach of the gambling regulations would result in a review of the alcohol licence. It is important that the Gambling Commission is aware of the Licensing Board’s responsibilities in respect of liquor licensing and removes such comment from its guidance.

## Part 36: Compliance and Enforcement

**Q14. Do you have any comments or views on the proposed revisions to Part 36?**

The issue of authorised persons in Scotland has been highlighted to the Commission on previous occasions. The Licensing Board is the licensing authority in Scotland in terms of the Gambling Act however the Board does not employ staff. We would again call for the legislation to be amended in order to remedy this by perhaps giving local authorities the duty to provide staff as in paragraph 8 of Schedule 1 of the Licensing (Scotland) Act 2005. Ultimately no matter what is said in the guidance or supporting notes from the

**Commission the terms of the Gambling Act prohibit Licensing Boards in Scotland from employing effective enforcement.**

## Other issues and comments

**Q15. Do you have any further opinions, comments or views on the changes we have made to this new edition of the Guidance?**

**We are disappointed that the timescales in reviewing the guidance has coincided with the triennial review of the Statement of Policy in Scotland. This has resulted in giving us insufficient time to fully implement any changes arising from the guidance in our policy statement.**

**Q16. Are there any further changes or amendments you would like us to consider?**

**No we do not believe any further amendments are required at this stage with the exception of the foregoing comments.**

## Future editions of the Guidance

**Q17. What are your views on future improvements to the Guidance, in particular, would you support an approach of more succinct statutory guidance supported by advice notes?**

**We think it is important that the guidance is kept whole to minimise confusion and ensure the relevant provisions can be easily found.**

- 1.5** Please note that responses may be made public or published in a summary of responses to the consultation, unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 1.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk). The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain

information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.

- 1.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.