

## Annexe B

3 written responses received representing the trade.

Consultation response verbatim	Consideration of response	Change made ( in bold)
From Luxury Leisure . Para 9.5. - As the Authority will appreciate, the Gambling Commission’s concept of “primary use” (under any name), has been the subject of challenges in the tribunals. It is not accepted that the concept is legitimately founded in the Act.	Will leave the paragraph as is until legislation is clarified.	No change
We note the Authority has attached a Local Area Profile map. Unfortunately, its size/scale makes it virtually impossible to read and analyse and may therefore prove to be of little use to operators when preparing risk assessments. If this were to remain the case, it would be a pity	The map will be attached as an appendix so that it will be able to be increased in size and can be updated as necessary without consultation.	No change
Para 9.15 – We wonder if the reference in the first line to para 9.13 is correct? Further, as the paragraph is currently written, it suggests that applicants must always propose conditions for the premise licence they seek. Surely this is not what is intended and conditions should only be proposed where necessary. We would ask that this be clarified, perhaps by inserting the words “if appropriate” after “licence conditions”.	agreed	In <b>sensitive areas</b> the Authority will expect applicants to fully explain in their applications how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally. Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions <b>if appropriate</b> , to cater for the local area in which they propose to run their business.
Para 9.17 – The Commission’s stated intention for risk assessments is that they are simple and short documents, based on the operator’s knowledge of the locality in which the particular premises are situated. It would be wholly disproportionate and unreasonable to expect operators to trawl through	Disagree The paragraph is only highlighting where information can be found.	No change

<p>lengthy websites, volumes of crime statistics, or un-named publications to come to a view on the risk it faces in running its premises. Although Para 9.17 does not make consideration of these sites compulsory, some may take it as such, which would be contrary to the intention of the Act and the Regulators' Code, which as the Draft correctly notes, applies to the matters covered by it</p>		
<p>Paras 9.23 and 9.31 repeat parts of the Mandatory and Default conditions. We are not sure why this is felt to be necessary, when other parts of the Regulations are not included. We suggest that these provisions be removed as being potentially confusing.</p>	<p>Disagree It is an informative as the policy is not just for the trade.</p>	<p>No change</p>
<p>. Para 9.28 – We do not understand the reference to “physical separation of areas” within an AGC. This is only relevant in the context of an adult area in a FEC and this is covered in para 9.29.</p>	<p>Disagree. Where premises have an existing multi licence (such as a bingo licence in an AGC) there needs to be separation.</p>	<p>No change</p>
<p>Para. 9.32 – While this para notes that it is an offence for those under 18 to bet, in fact it is an offence for them to be on the premises. Although this is referred to elsewhere, we suggest it be clarified in this para to avoid confusion.</p>	<p>agreed</p>	<p>9.32 Betting machines in Betting Premises - The Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor <b>the access to the premises</b> and use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number and nature of betting machines an operator wants to offer. The Authority will consider limiting the number of machines only where there is evidence that such machines have been, or are likely to be, used in breach of the licensing objectives. Where there is such evidence, the</p>

		Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter. extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected
Para 9.33 - We do not understand why these comments are directed only to Betting Premises and not to other premises holding other types of premises licences. This appears to be unfair as a blanket approach and therefore not in keeping with the Regulators' Code.	Disagree. From experience betting shops have tended to close down and reopen a new branch nearby so if the new application is in a sensitive area this paragraph will assist.	No change
GossChalks solicitors on behalf of the Association of British Bookmakers. Paragraph 1.5 indicates that in carrying out its licensing functions under the act, the Council will "generally aim to permit the use of premises for gambling..." the requirement within section 153 Gambling Act 2005 is that the licencing authority does "aim to permit". The word 'generally' should therefore be deleted.	Disagree	No change
Paragraph 9.1 states that "licencing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate". The statement of gambling policy needs to be clear throughout that conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licencing objectives in the circumstances of that particular case.	Noted but don't consider that it requires changing.	No change

<p>Paragraph 9.27 makes this point in relation to door supervision but the statement of principles needs to be consistent that conditions will only be imposed where there is evidence of a need to do so and not simply where “it is believed to be appropriate” (paragraph 9.1), where there is a ‘perceived need’ (paragraph 9.22) or whether there are mere concerns.</p>	<p>Noted but don’t consider that it requires changing</p>	<p>No change</p>
<p>Paragraph 9.9 refers to the location of premises. The final two sentences of this paragraph cause the ABB significant concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licencing regime under Licencing Acts 2003. Such a policy is contrary to the overriding principles of “aim to permit” contained within s153 of the Gambling Act2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle that each case will be determined on its own merits.</p>	<p>Refer to the sentence before the final 2 sentences. “Should any specific policy be decided upon regarding areas where gambling premises should not be located, this Statement will be updated”. No areas have been identified and a consultation exercise would have to be carried out prior to implementation.</p>	<p>No change</p>
<p>Paragraph 9.12 appears to have the title of first licensing objective missing. Paragraphs 9.19 and 9.20 have the second and third licensing objective clearly stated in bold type. The title appears to have been omitted from the beginning of paragraph 9.12.</p>	<p>Agreed</p>	<p>9.12 <b>Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime.</b> Premises licences granted must be reasonably consistent with</p>

		<p>the licensing objectives. The Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of crime the Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions, such as the provision of door supervisors, may be relevant.</p>
<p>Paragraph 9.12 should be clear that issues of nuisance are not relevant considerations and that the Gambling Commission has defined disorder as intending to mean activity that is more serious and disruptive than mere nuisance.</p>	<p>Disagree</p>	<p>No Change</p>
<p>Paragraph 9.13 should be deleted. It refers to 'sensitive areas' but these are not defined. It further indicates that the licencing authority will consider imposing restrictions on advertising gambling facilities on such premises where it is felt relevant and reasonably consistent with the licencing objectives. Advertising on gambling premises is already heavily regulated and covered by the LCCP. Ordinary code provision 5.1.6 requires socially</p>	<p>Disagree. This is more for a consideration by the applicant.</p>	<p>No change</p>

<p>responsible advertising, compliance with the CAP codes of practice and the gambling industry code for socially responsible advertising. The advertising of gambling premises is not an issue for consideration by the licensing authority and is dealt with instead under the operating licence regime. This paragraph should therefore be removed.</p>		
<p>Paragraph 9.14 explains that the local area profile introduces the map at Appendix D showing the location of schools, homes for vulnerable people and other places that the authority deems relevant for the purposes of a local authority risk assessment. This paragraph needs to be redrafted and the map at appendix D amended. The reason is that irrelevant considerations are taken into account. Social responsibility code provision 10.1.1 requires that licensees must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. The risk assessment, therefore, must relate to the gambling objectives. Issues such as ASB hotspots (paragraph 9.14) and the proximity of churches (appendix D) cannot be relevant to the licensing objectives. Issues of nuisance are not relevant considerations under Gambling Act 2005, the Gambling Commission advising that those be dealt with under separate legislation and it is difficult to see how the proximity of a church could be relevant. Indeed, the Gambling Commission guidance (paragraph 5.34 – fifth addition) indicates “licensing</p>	<p>The map is to assist applicants to know what is in the area. Places of worship are included for completeness only.</p>	<p>No Change.</p>

<p>authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences". It is impossible to see how the proximity of a betting premise to a place of worship could pose a risk to the licencing objectives.</p> <p>It is accepted from the outset that the proximity of proposed betting offices to schools/hostels for vulnerable people could pose a risk to the licencing objectives. These issues will be covered by the local area risk assessments that need to be lodged with new applications/material variations after 6 April 2016. The paragraphs in the statement of gambling policy should also be put into some context. The licensing authority should recognise that there has been betting regulation for over 50 years. Operators have developed policies and procedures to ensure that those who are not permitted to bet do not do so. These policies and procedures are supplemented by the mandatory and default conditions which are specifically tailored to the operation of gambling premises.</p>		
<p>Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. Please note that when judging applications, the Council should not take into account of any</p>	<p>Agreed</p>	<p><b>1.7 The Licensing Authority will not take into consideration any moral objections to Gambling when considering an application for a premises licence.</b></p>

<p>moral objections to gambling and most Council's include a sentence to this effect.</p>		
<p>Coral Racing Limited recognise the requirement to supply risk assessments with future applications &amp; variations following the consultation completion (requirement is from 6th April 2016) and are pleased to see this information included within the Draft Statement. Whilst each application will be judged on its merits as mentioned at several points within your statement, we would like to politely highlight that within the detail of the style of Risk Assessments required (Section 9) of your Draft Statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools causes harm to the licensing objectives.</p> <p>We appreciate that such locations are included within Gambling Commission guidance to councils but wish to ensure that by inclusion in the document, there is no inference that such locations in close proximity to the licensed premises, are at greater risk of causing harm to the licensing objectives.</p> <p>Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited</p>	<p>The map is to assist applicants to know what is in the area. The location of Schools is included to assist applicants when they undertake their risk assessments when the legislation requires them to do so,</p>	<p>No Change.</p>



<p>immediately next to schools and colleges and no evidence whatsoever that they cause problems. Coral's experience</p>		
<p>Power Leisure Bookmakers Ltd Should the Licensing Authority contemplate introducing detailed policies regarding the location of specific gambling premises (section 9.9), thorough details should be provided for consultation with stakeholders at that time.</p>	<p>Agreed and already in the policy.</p>	<p>No change</p>
<p>We note at paragraph 9.6 that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer gambling is constructed. This paragraph requires updating.</p>	<p>Agreed wording amended.</p>	<p><b>Operators can apply for a premises licence in respect of premises which have still to be constructed or altered and each application will be determined on its merits. It should be noted that an applicant may not be able to obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed.</b></p>