

APPENDIX 1

GAMBLING LICENSING POLICY CONSULTATION RESPONSES

Gosschalks Solicitors have suggested a variety of alterations to the Gambling Licensing Policy which are as follows:

1. Paragraph 1.4 in relation to the Licensing Objectives the word 'promote' has been changed to 'have regard' in two places.

This has been accepted and the revised policy has been amended, to maintain the distinction of the Gambling Act 2005 premises licences and those issued under the Licensing Act 2003.

2. Paragraph 2.4 the removal of the penultimate sentence.

The sentence states that:

"Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated."

This has been accepted and the revised policy has been amended. It envisaged is likely to be unlawful and is certainly contrary to the overriding principle that the licensing authority must "aim to permit" the use of premises for gambling.

3. Section 2.8 the request from Gosschalks Solicitors states that 'to include that that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. This should be made clear and the draft policy should state that the starting point for consideration of any application is that it will be granted only subject to the mandatory and default conditions. Thereafter, the policy should state that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that requires that the mandatory and default conditions be supplemented.'

This has been accepted in part and the following sentence is added to the section:

"The mandatory and default conditions are usually sufficient to ensure that the operation of a premises is consistent with the licensing objectives. Additional conditions may only be imposed where there is a risk to the licensing objectives requiring the mandatory and default conditions to be supplemented."

The request to state in the policy that there must be clear evidence of a risk to the licensing objectives in order to impose additional conditions has not been included. It is envisaged that there may be limited evidence if the application relates to a brand 'New Premises'. To include this part of the request would be limiting to the Licensing Committee whose role it is to make such decisions based on the information in front of them with for which they must provide clear and concise reasons.

4. Chapter 6 'Risk Assessment – Premises' under 'Matters relating to children and young persons' the request is to remove the following statement

“Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.”

This request has been accepted as it is over prescriptive and covered under two other areas in this section which are “Any premises where children congregate including bus stops, café’s, shops and any other place where children are attracted” and “known anti-social behaviour issues”

5. Chapter 6 ‘Risk Assessment – Premises’ under ‘Matters relating to vulnerable adults’ the request is to remove the following statement:

“Gaming trends that may mirror days for financial payments such as pay days or benefit payments.”

Gosschalks Solicitors stated that they would not request the removal of this statement if the licensing authority has pre-determined that persons in receipt of benefits are automatically vulnerable or more likely to commit crime as a result of gambling. This is the only way that this could be relevant to an assessment of any risk assessment of any risk to the licensing objectives.

This section is for matters to be ‘considered’ when making a risk assessment. The authority has not pre-determined that persons in receipt of benefits are automatically vulnerable but It is reasonable that should a Licensed Gambling Premises identify a pattern of such gaming trends, they should identify and address this in their local risk assessment as a responsible premise. The above statement therefore remains within the Policy.

6. Chapter 6 ‘Risk Assessment – Premises’ under ‘Other issues that may be considered’ the request is to remove the following statement:

“Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.”

Traditionally such premises are considered as only being used as places of worship, however in recent years local churches have become actively involved in help with the homeless in the County Borough providing assistance, food and shelter. The use of local churches and halls may also provide other active schemes forms of community support which may attract children, young people, or vulnerable adults. It is envisaged that there will be occasions when Licensed Gambling Premises may have to consider such premises in their risk assessments. This request has therefore not been accepted.

7. Chapter 6 ‘Risk Assessment – Premises’ under ‘Other issues that may be considered’ the request is to remove the following statements:

“the economic make-up of the area”
“the surrounding night time economy”
“known anti-social behaviour issues”

It is not accepted that these should be removed. This section includes items which ‘may’ be considered this would be dependent on the location of the Gambling Premises and it has been determined these would be relevant issues in some areas of the Merthyr Tydfil County Borough.

These additional conditions are also included in the Gambling Licensing Forum Monmouthshire Gambling Licensing Groups draft Policy.

8. Section 'Local Risks and Control measures' it has been requested that this section is overly prescriptive and the draft policy does not make it clear that the form and content of any risk assessment is a matter for the operator. The policy should be clear that it contains advice and recommendations rather than outlining requirements with regard to the content and form of any risk assessment. Accordingly this section has been redrafted.

As there is no format for a risk assessment set out in the Licensing Act or Regulations the following sentence is to be included at the start of the section:

"The form and content of the risk assessment is a matter for the operator. However the paragraphs below provide advice and recommendations for the potential content and form of any risk assessment".

GamCare sent an email response received from GamCare is a generic one as GamCare do not have the resources available to respond individually to each Licensing Authority. GamCare provided a list of factors which they believe would be helpful for consideration.

On assessment the draft Licensing Policy covered almost all the factors raised. There was one exception. Under Chapter 6 'Risk Assessment – Premises' 'Matters relating to children and young persons GamCare suggested the inclusion of "the proximity to colleges". The revised Gambling Licensing Policy has been updated to include this factor.