

Review of Gaming Machines and Social Responsibility Measures

Local Government Association response

December 2016



Key messages

- The Local Government Association (LGA) welcomes this review into gaming machines and social responsibility measures, and in particular the broader focus on their impact on communities as well as individuals.
- We support Government's objective of striking the right balance between socially responsible growth in the gaming / betting shop industry and the protection of consumers and wider communities.
- Councils are not anti-gambling. However, in relation to betting shops and B2 gaming machines, we believe that the Gambling Act has not to date struck the right balance between freedom for businesses to develop as they wish and the concerns and needs of local communities. This is in contrast to other areas of the Gambling Act, where stakes are significantly lower and there is greater control over the growth of premises, as well as in contrast to other areas of licensing legislation. This is something that we believe should be addressed.
- The LGA believes that maximum stakes on B2 gaming machines should be reduced to £2. This is because the current maximum stake of £100 is significantly out of line with the maximum amounts that can be staked on other types of gaming machine, and because there is credible evidence that these machines may be particularly addictive and linked to anti-social behaviour and crime in betting shops.
- The regulation of gaming machines is not based on maximum stakes and prizes alone, but is also linked to the premises in which the machines are based. The statutory aim to permit prevents councils from taking steps to address the number of premises in areas where there are already clusters of betting shops. The LGA supports stronger powers for councils to limit betting shop clustering, and believes government should therefore introduce powers for councils to introduce local cumulative impact policies for gambling premises, equivalent to the power it is currently introducing in alcohol licensing.
- Similarly, we believe that the Gambling Act should replicate the wider set of objectives in the Licensing Act 2003, which as well as covering crime and disorder and the protection of young people also cover the prevention of public nuisance, and public safety. This would ensure that in those areas where there is anti-social behaviour linked to betting shops, councils are better equipped to address this.

Submission

Detailed response

In this section, we address the specific questions posed in each part of the call for evidence.

Gaming machine maximum stakes and prizes

What, if any, changes in maximum stakes and/or prizes across the different categories of gaming machines support the Government's objective set out in this document. Please provide evidence to support this position.

- The LGA believes that B2 gaming machine stakes should be reduced to £2, in line with the current maximum stake playable on other high street gaming machines.
- First and foremost, we believe that the stake is simply too high when compared to maximum stakes playable on other high street machines, and given that the maximum stake playable in more closely regulated casinos is just £5. We note that policy makers responsible for the introduction of the Gambling Act now openly acknowledge some of the problems arising from the introduction of the Gambling Act. The fact that the machines have come to account for a much greater proportion of betting shop income than over the counter is not a sufficient reason to maintain such a discrepancy.

Gross gambling yield (GGY) from B2 machines rose from £1.05bn in April 2008 to £1.73bn in March 2016, an increase of 65%. At the same time, GGY from over the counter betting fell from £1.66bn to £1.41bn, a 15% fall. This means that GGY from B2 gaming machines now accounts for 55% of GGY in betting shops, up from 39% in 2008.

Source: Gambling Commission statistics, November 2016

- Looking specifically at Government's objective for the review, we do not believe that such a high stake sufficiently protects consumers.
- Clearly, problem and harmful gambling relates to a range of products, rather than to a single category of machine. We also acknowledge that we are not experts in the psychology of gambling or other addictions. However, it appears that there is credible evidence¹ that this particular type of machine may be particularly addictive and, if that is the case, it is unacceptable that the maximum stake for this product should be so much higher than for others. Reducing the maximum stake would at least provide some sort of potential brake on the significant losses that can cause such harm to some individuals playing on the machines.²

In supporting this submission, one council reported to the LGA that they are aware of a resident that has lost up to £1,000 in a single lunch hour, with accumulated debts now totalling over £100,000. The council believe that the resident has never been challenged by staff, and notes the machines are unsupervised most of the time.

¹ <http://www.bbc.co.uk/programmes/b07w11kg>

² Research for BACTA published in November 2016 concluded that a reduction in stakes 'would lead to an average reduction of over 50% in the vulnerability to large losses of people at significant risk of being or becoming problem gamblers.'
http://www.bacta.org.uk/downloads/Research_Results_into_Effects_of_B2_Stake_Reduction.pdf

- Alongside evidence of B2 machines being particularly addictive, there are numerous reports of the machines being specifically associated with violence and aggression in shops. We also note reports of betting shops being increasingly targeted for crime³, and although we don't have access to the figures beyond those listed below, we would urge Government to investigate these reports and access the relevant police data, as well as ensuring it engages with the police as part of the stakeholder engagement phase of this review.

Newham council report that for the period 2015-16 the number of police call outs linked to betting shops was equivalent to 1.2 incidents per day.

North East Lincolnshire council report the following police statistics on crime linked to betting shops for the period October 2015 to September 2016. There were a total of 33 reported crimes linked to betting shops in the area: burglaries & thefts = 16, criminal damage = 11, assaults = 4, other = 2.

As detailed in their separate submission, Hounslow council are aware of 48 criminal damage incidents linked to B2 machines in betting shops in the borough between November 2015 and November 2016.

Gravesham council reported 17 calls to the police linked to five town centre betting shops over the last twelve months.

Source: Newham, North East Lincolnshire, Hounslow and Gravesham councils

- Aggression and crime in betting shops is of particular concern – and may partly be fuelled by - the increasing tendency for betting shops to be staffed on a 'single manning' basis, whereby there is only one member of staff working at a given time. Again, we would urge the Government to follow up the numerous media reports and discussion in website forums about violence linked to B2 gaming machines by engaging confidentially with betting shop staff to get their input into the next phase of this review.
- As well as sometimes putting members of staff at risk of crime, the issue of single manning also begs the question of how staff can adequately fulfil the social responsibility obligations binding on betting shops if they are solely responsible for managing a premises (with all the other responsibilities that entails) and / or faced with an aggressive customer. However, councils that have tried to challenge this model have faced difficulties in doing so.

Councils report that, when considering premises applications, betting shops may concede or accept conditions on a number of issues, but are extremely reluctant to make concessions on the issue of single manning of premises.

- Alongside the potentially harmful impact of B2 machines on individual gamblers, and of associated crime and wider betting shop related crime on those working in betting shops, we are also concerned that the profitability of B2 gaming machines outlined above has helped to drive betting shop

³ <https://www.theguardian.com/uk-news/2016/jul/22/betting-shops-serious-crime-robbery-metropolitan-police-flying-squad>

clustering in some areas, with a detrimental impacts on high streets and town centres.

- Although overall numbers of betting shops have fallen slightly in recent years⁴, it is accepted that there has been a change in the location of betting shops, with a reduction in some areas offset by the development of clusters of betting shops in others.
- There are various reasons for this, but key factors have been the removal of the demand test from the Gambling Act when it was introduced, and the impact of the recession which led to vacant premises on high street locations. We would also note that in our discussions with betting shop firms in 2014 industry representatives acknowledged that bookmakers actively seek to cluster alongside other operators in order to compete with them. We also believe that the desire to provide more than four of the increasingly profitable B2 machines in certain locations may have played a role in driving clustering.

Examples of clusters of betting shops include:

- Newham council has experienced a 47% increase in betting shops since 2007 and now has 84 betting shops in the borough.
- Doncaster has 56 licensed betting shops across the borough. There are 15 licensed premises in close proximity in the town centre, and multiple licensed premises in each area where they are located throughout the borough.
- North East Lincolnshire have a total of 37 betting shops and 148 FOBTs.
- Data from Hackney Council indicates that there are five betting premises registered at numbers 117-119, 157, 165 and 181 Stoke Newington High St. Similarly, there are six registered premises at numbers 44, 158/162, 174, 226, 230, 238-240 Stamford Hill.
- Barking and Dagenham have 50 premises in total, with a main cluster of ten premises in Barking and six in close proximity to each other.

- Clustering of any single type of premises on high streets can be problematic, by reducing the diversity of the retail and leisure offer available in local places. However, two specific concerns about betting shop clusters are that:
 - They typically appear in more deprived areas, where the harm from problem gambling may be exacerbated and where the retail diversity of high streets may be more limited than in more affluent areas. Research undertaken by Geofutures for the Responsible Gambling Trust and published in February 2015 confirmed that *'areas close to betting shops tend towards higher levels of crime events, resident deprivation, unemployment, and ethnic diversity...[and that] players overall tend to live in neighbourhoods with higher levels of resident unemployment, multiple deprivation and economic inactivity.'*⁵

⁴ Gambling Commission statistics indicate a reduction in the total number of GB betting shop premises from 8,872 in March 2009 to 8,709 in September 2016.

⁵ http://infohub.gambleaware.org/wp-content/uploads/2015/08/b2gamingmachines_finalreport_20150218.pdf

- Emerging evidence that numbers of at risk and problem gamblers among betting shop loyalty card holders are higher in areas close to clusters of betting shops and FOBTs.⁶ Although the research does not necessarily indicate a causal relationship between clusters of premises / machines and problem / at risk gambling, it is indicative of the potential risks associated with clusters and the need for licensing authorities to be able to manage these.
- We believe that these factors enhance the case for reducing stakes on B2 gaming machines to ensure that communities, and particularly those already potentially experiencing more constrained financial circumstances, are sufficiently protected.

To what extent have industry measures on gaming machines mitigated harm or improved player protections and mitigated harm to consumers and communities? Please provide evidence to support this position.

- We acknowledge that the betting shop industry has initiated some measures to try to improve player protection, such as the Association of British Bookmaker's Responsible Gambling Code.
- We are not in a position to offer an evaluation of the success of these measures in mitigating harm to individual players, although we note initial indications that it was not impactful.⁷
- In relation to the £50 stake measures introduced in 2015, we believe that the £50 threshold is still too high relative to other maximum machine stakes.
- We would also emphasise that these measures have focused on individual players rather than on communities as a whole.
- It has been a significant source of frustration for councils and local communities in recent years that, often against the wishes of local residents, betting shops have sought to open additional premises where there are multiple other premises already established. While the law has allowed them to do so, a more responsible approach to local communities would have taken greater account of local feelings on the issue.
- It is for this reason that councils require further tools to manage local betting shop premises.

What other factors should Government be considering to ensure the correct balance in gaming machine regulation? Please provide evidence to support this position.

- Gaming machine regulation is based upon a number of factors, including the content of machines; maximum stakes and prizes, and the numbers, location and availability of machines. While this review is primarily focused on stakes and prizes, we believe there is a fundamental need for government to consider the numbers, location and availability of machines as well. In relation to B2 machines, this issue is inextricably linked with the number and location of betting shops.

⁶ <http://www.responsiblegamblingtrust.org.uk/media/1260/geofutures-secondary-analysis-of-machines-data-final.pdf>

⁷ <http://www.rgtinfohub.org.uk/wp-content/uploads/2015/10/abb-early-impact-report-final-report.pdf>

- The statutory aim to permit has made it extremely difficult for councils to restrict the number and location of betting shops and gaming machines, even in areas that already have multiple premises and machines. This is why we would favour supporting recent planning changes with additional powers for councils in licensing legislation, such as the introduction of a statutory cumulative impact approach in gambling licensing.
- Anecdotal evidence from councils suggest that the 2015 planning change, which made betting shops sui generis and means that planning approval is required to convert a building to a betting shop, has led to a reduction in applications for new betting shops.
- Newham council recently became the first council to agree such an approach in their local plan. The Planning Inspectorate has approved a policy whereby small changes to places can now be assessed cumulatively rather than in isolation and which introduces limits to the numbers of betting shops (and other outlets) ensuring they are separated from each other in the street scene. This new policy criteria also prevents new betting shops from locating in areas where there are already three units of the same use within a 400m radius (typical five minute walk). This is a welcome development.
- However, there are limitations to the recent change, as it applies only in cases where an application for planning permission must be made. Existing betting shops already have planning permission; therefore, if one firm closed an existing premises, there would be nothing to stop a different firm from opening a betting shop in its place. We believe this is a realistic prospect, given expected developments in the market.
- Furthermore, we do not believe that the planning framework (which broadly regulates the economic use of land) is ultimately the right tool for regulating betting shops and gaming machines. Instead, councils should have powers under the Gambling Act to reach evidence based decisions about whether local premises or gaming machines are at saturation point, and that further premises or machines should either be refused or permissible only subject to specific conditions.
- The Government has introduced amendments to the Police and Crime Bill that will place the concept of cumulative impact policies in alcohol licensing onto a statutory basis in the Licensing Act 2003. We urge Government to adopt a similar approach in the Gambling Act, to allow councils to develop cumulative impact policies in areas with concentrations of betting shops. This is dealt with in more detail in the section below.
- This should be supported by bringing the Gambling Act into line with the Licensing Act in another area to help support the Government's objective for this review.
- We are concerned that the three licensing objectives in the Gambling Act⁸ do not adequately reflect some of the issues that can be associated with betting shops and gaming machines in particular, such as criminal damage. The objective of ensuring gambling is kept free from crime and

⁸ Ensuring gambling is kept free from crime and disorder, ensuring gambling is conducted in a fair and open way, and the protection of children and vulnerable adults.

disorder is a much higher bar than is set in the Licensing Act's public nuisance objective. We would therefore support the introduction of an equivalent public nuisance or anti-social behaviour objective into the Gambling Act to enable councils to take into these wider issues into account.

Gaming machine allocations

What, if any, changes in the number and location of current gaming machine allocations support the Government's objective set out in this document? Please provide evidence to support this position.

- We believe that in order to meet the stated objective of protecting consumers and wider communities, councils need to have powers within the Gambling Act to restrict the opening of new betting shops and provision of additional gaming machines.
- In the LGA's view, the unfettered application of the statutory aim to permit quite simply does not strike the right balance between socially responsible growth and player and community protection, because councils are virtually powerless to prevent the clustering of premises and machines. Reducing machine stakes without addressing this issue would leave this issue only half solved.
- Above all, we believe that councils should have the powers to develop local approaches to gambling regulation that are in the interests of their areas, including in regard to numbers of premises and machines. It is important to emphasise that not all councils are concerned about the issue of clustering and we are not suggesting that these areas should need to change their current approach to licensing betting shops. However, it is clear from some of the examples above that other areas are experiencing issues, and that there is a need for local flexibility to respond to this.
- Ultimately, we believe that councils should have the power to refuse applications for new betting shop premises licences, and therefore to control the number of gaming machines in their areas.
- We note that in relation to the licensing of sex establishments, the Local Government Miscellaneous Provisions Act 1982⁹ empowers councils to determine the number of establishments that is appropriate for that locality, having regard to the character of the relevant locality or the use to which any premises in the vicinity of put. A recent case on sex establishment licensing concluded that '*Parliament's intention was to give primacy to the evaluative judgment of local authorities who have the advantage of local knowledge, the responsibility vested in them by election and the accountability to their constituents imposed by the local democratic process.*'¹⁰ A similar approach is required in relation to gambling.
- There are different ways in which councils could control the numbers of betting shops and gaming machines, based upon powers to restrict premises, or powers to control or vary the number of gaming machines permitted per premises (in line with the power devolved to the Scottish Government).

⁹ Schedule 3

¹⁰ <http://www.licensingresource.co.uk/sites/default/files/The-Queen-on-the-application-of-Ruby-May-and-Bean-Leisure-v-Leeds-CC-Judgment.pdf>

- As set out above, the Government is putting the concept of cumulative impact policies in alcohol licensing on a statutory basis. Under the proposed changes, councils would be able to incorporate cumulative impact assessment as part of their licensing statements. These would enable councils to set out evidence for why they think it would be inconsistent with the licensing objectives to grant further licences in a specific area. Councils must consult on their assessments, and they will be required to be reviewed every three years.
- CIPs are already widely used in alcohol licensing; at the end of March 2016 there were 215 in place across 103 areas.¹¹ These are used sensibly and proportionately by councils, with only 8% of new applications refused in CIP areas (compared to 3% overall). An important benefit for councils is that they can be used to signal to businesses the additional measures that might be required in some areas due to the numbers of existing premises.
- We believe there is scope for a similar approach in gambling licensing. CIPs could be used to identify areas where existing patterns of clustering means that the statutory aim to permit could be limited; or to impose a cap on the total number of gaming machines in that area, meaning that a betting shop licence might be granted but without the automatic right for an entitlement of up to four machines.

Leeds City Council operates five cumulative impact policies across the city. The council's statement of licensing policy identifies specific issues identified in those areas, and the default position of the licensing authority in relation to new applications or applications to vary licences: <http://www.leeds.gov.uk/docs/Statement%20of%20Licensing%20Policy%202014-2018.pdf> .

The operation of the CIP is closely linked to the cumulative risks posed by multiple premises to the licensing objectives. Therefore consideration of a CIP approach in gambling would need to consider the current set of licensing objectives under the Gambling Act.

- We would welcome the opportunity to work with Government in considering some of these options, and how they might work in practice, in more detail.

Social responsibility measures

What has been the impact of social responsibility measures since 2013, especially on vulnerable consumers and communities with high needs of deprivation? Please provide evidence to support this position.

Is there anything further that should be considered to improve social responsibility measures across the industry? Please provide evidence to support this position.

Is there any evidence on whether existing rules on gambling advertising are appropriate to protect children and vulnerable people from the possible harmful impact of gambling advertising? Please provide evidence to support this position.

¹¹ <https://www.gov.uk/government/publications/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016>

- It is not clear that that recent social responsibility measures have had significant impacts on vulnerable consumers and communities. Our view is that at £50, the threshold at which an individual can gamble on B2 machines without engaging with staff or using account based play is still too high.
- We would like to see more evidence of social responsibility by betting shop firms towards their employees, in terms of standard working models and the use of single manning practices. As set out above, we are concerned that lone working encourages crime and places individual staff members at risk in certain premises.
- Finally, although we do not have any evidence on this point beyond the available figures demonstrating recent increases in spending on gambling advertising, we note that many councillors are concerned about the growth in gambling advertising, particularly, but not exclusively, television advertising.
- While the Gambling Act was intended to position gambling as an acceptable leisure activity, we are concerned that the volume of gambling advertising – particularly around events watched by children, such as premiership football – goes beyond what can be deemed the right balance between socially responsible growth and protecting individuals and communities.
- We would therefore welcome consideration of tighter restrictions on gambling advertising, but defer to experts on these issues as to how that could be achieved.