



City of Westminster

Licensing Committee Report

Date:	Wednesday 29 th November 2017
Classification:	For General Release
Title:	Department for Digital, Culture, Media and Sport (DCMS) Consultation on proposals for changes to Gaming machines and Social Responsibility Measures under the Gambling Act 2005
Report of:	Director of Public Protection and Licensing
Wards Affected:	All
Financial Summary:	N/A.
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1. Executive Summary

- 1.1 The report summarises the public consultation that has been initiated by the Department for Digital, Culture, Media & Sport (DCMS) on proposals for changes to Gaming Machines and Social Responsibility Measures relating under the Gambling Act 2005 (the Act).

2. Recommendations

- 2.1 The Committee note the consultation and feedback any views to the Licensing Service by the 5th January 2018 prior to the submission of the Council's formal response.

3. Reasons for Decision

- 3.1 The Deputy Leader/Cabinet Member for Business, Culture and Heritage will be approving the Council's response to this consultation. However, as the Licensing Authority the Committee will have valid views on the consultation proposals that should be considered in the response to this consultation. Members of the Licensing Committee have the opportunity to pass on their views to the Licensing Service prior to the formal approval of the Council's response.

4. Background information, including policy context

- 4.1 The Gambling Act 2005 (the Act) provides a regulatory framework for gambling in England, Scotland and Wales. The Act sets out a number of licensing requirements associated with the provision of facilities for gambling and the supply of equipment for gambling. The Council, as Licensing Authority, is responsible for the Licensing of Premises Licences within Westminster. The Gambling Commission is responsible for Operating and Personal Licences as well as setting the standards and approach to gambling regulation across the country.
- 4.2 The Act is set on three licensing objectives:
 - 4.2.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - 4.2.2 Ensuring that gambling is conducted in a fair and open way
 - 4.2.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.3 Operating and personal licences issued by the Commission relate to the individual who facilitates or manages gambling or an organisation that acts as a gambling operator. The Gambling Commission impose Licence Conditions and Codes of Practice (LCCP) on operators and personal licence holders. The LCCP sets out Social Responsibility measures with which Operating Licence holders must comply.
- 4.4 The Gambling Commission also produces guidance for Licensing Authorities on the interpretation of the Act and includes references to the requirements placed on operators through the LCCP.
- 4.5 Licensing Authorities are responsible for issuing premises licences under the Act. There are six categories of premises licences that the Licensing Authority will consider and determine. These are:
 - 4.5.1 Casinos (converted casinos),
 - 4.5.2 Bingo,
 - 4.5.3 Betting (Tracks),
 - 4.5.4 Betting (Other) (betting shops or LBOs),
 - 4.5.5 Adult Gaming Centres (Arcades for 18 and over), and
 - 4.5.6 Family Entertainment Centres (Arcades that permit children to enter).
- 4.6 The Licensing Authority is also responsible for considering and determining gaming machine permits and acknowledging notices relating to entitlements to gaming machines in alcohol licensed premises.
- 4.7 The Act permits gaming machines which are distinguished across different categories (A - D) and then sub-categorised for specific types of stakes and

prizes (see Appendix 1). The Gambling Commission issues technical standards for gaming machines but the government, via DCMS, sets the maximum stakes and prizes for these machines.

- 4.8 Each type of gambling premises licence, gaming machine permit and notification have specific statutory limits on the number and category of gaming machines that are permitted to be made available on the premises.
- 4.9 The Licensing Authority is specifically prohibited in the Act from conditioning premises licences or restricting gaming machine permits relating to the stake, prizes or entitlement for gaming machines.
- 4.10 The Council has been heavily involved with the Gambling Commission and has been leading the local authority approach to gambling regulation. A great deal of work has been undertaken to develop a robust approach to considering and determining gambling premises licences within Westminster. The Council, in partnership with Manchester City Council and the Local Government Association (LGA) commissioned research and the development of a local gambling risk index which was the first of its kind in the UK. This risk index has developed a greater understanding of who are at risk to gambling and where they are located within Westminster.
- 4.11 The issues and concerns surrounding the number, location and gaming machine offer of betting shops have been a significant issue for the last 10 years since the Act came into effect. Westminster has been one of the very few local authorities that have been able to refuse applications for betting shops within its area based on the impact that the premises may have on the vulnerable. The council has also implemented reviews on the impact of betting shops, these have resulted in some of the most stringent conditions placed upon a betting shop.
- 4.12 In addition to having a robust regulatory approach to gambling, the Licensing Service has been active in engaging with gambling operators and key stakeholders within gambling to develop working relationships and foster effective working practise.
- 4.13 Westminster's Licensing Service has been involved in providing technical support to private members bill within the Lords looking to effect changes to the Act to specifically address the concerns surround category B2 gaming machines, otherwise known as Fixed Odds Betting Terminals (FOBTs) within betting shops.

5. Consultation Proposals

- 5.1 The Government announced a review of gaming machines and social responsibility measures in October 2016. The objective of the review was to ensure that there is the right balance between a sector that can grow and contribute to the economy, and one that is socially responsible and doing all it should to protect consumers and communities, including those who are just about managing.

- 5.2 Westminster's Licensing Service met with DCMS policy officers in 2016, in relation to the review of gaming machines and social responsibility measures. At these sessions officers were able to explain Westminster's approach and views on the impacts of some categories of gaming machines and other social responsibility measures that could be considered.
- 5.3 Following a call for evidence, during which DCMS received 275 submissions, a set of proposals has been produced which is now the subject of public consultation. A summary of the proposals is as follows:
- 5.3.1 DCMS believe that the current regulation of **B2 gaming machines** is inappropriate to achieve our stated objective. We are therefore consulting on regulatory changes to the maximum stake, looking at options between £50 and £2, in order to reduce the potential for large session losses and therefore to potentially harmful impacts on players and their wider communities.
- 5.3.2 While the industry proposes increases to the remaining **stakes and prizes, permitted numbers and allocations across other categories of machine** (B1, B3, B3A, B4, C and D gaming machines), we believe retention of the current regulatory environment will better protect players from potential harm than industry's proposed increases.
- 5.3.3 DCMS is aware that the factors which influence the extent of harm to the player are wider than one product, or a limited set of parameters such as stakes and prizes. These include factors around the player, the environment and the product. We are therefore also consulting on **corresponding social responsibility measures across gaming machines that enable high rates of loss, on player protections in the online sector, on a package of measures on gambling advertising and on current arrangements for the delivery of research, education and treatment (RET)**. Within this package, we want to see industry, regulator and charities continue to drive the social responsibility agenda, to ensure that all is being done to protect players without the need for further Government intervention, and that those in trouble can access the treatment and support they need.

B2 gaming machines (Fixed Odds Betting Terminals)

- 5.4 The proposals from DCMS relating to B2 gaming machines are probably the most important in terms of the potential impact that any change in stakes and prizes may have on the vulnerable.
- 5.5 In response to the call for evidence, there was widespread support for a reduction in stake limits for B2 machines to £2 (Local authorities, charities and religious groups). The betting sector, represented by the Association of British Bookmakers (ABB), did not seek an increase in either stake or prize limits across the gaming machine categories permitted in betting shops, but has argued for the need to maintain the status quo, specifically on B2 machines.

- 5.6 The Government, although acknowledging that B2 gaming machines are important to the economic viability of betting shops, cannot ignore the evidence put forward on the concerns relating to the impact of B2 machines. The consultation document that DCMS has produced provides a significant amount of evidence which has informed the decision to seek a reduction in the current stake for B2 gaming machines.
- 5.7 It is important to note that the category gaming machines relate to the type of games/gaming that can be played on them. This does not necessarily limit the machine to just B2 game content. Gaming machines in betting shops can offer a large number of different games within the gaming machine. Those games can range from category B2 games to category D games. Each game has the different maximum stake and prizes required by law. B2 games can be described as slots or non-slots. Slots are games that are either mechanical or virtual in nature and which use spinning reels. Non-slots are virtual games of the type played in casinos, primarily roulette, and other virtual sporting events such as horse racing and dog tracks.
- 5.8 The consultation sets out 4 options that they are seeking views on. These are:
- Option 1 Maximum stake reduced to £50 on all B2 content
 - Option 2 Maximum stake reduced to £30 on all B2 content
 - Option 3 Maximum stake reduced to £20 on B2 non-slots and £2 on B2 slots
 - Option 4 Maximum stake reduced to £2 on all B2 content
- 5.9 An impact assessment has been conducted as a result of these options and the consultation paper does set out the potential impact that each option may have on reducing the impact on those at risk or suffering from problem gambling.
- 5.10 Based on the evidence provided within the consultation document and from the research and experience gained on the impact of gambling and risk to the vulnerable, option 4 above may be the preferred option. However, there are significant concerns in respect of the impact on those at risk of gambling related harm associated with B3 gaming machines, which already offer a £2 maximum stake
- 5.11 The reduction to a maximum stake of £2 will match that of B3 gaming machines, for which there are already concerns over the impact of those machines. The evidence suggests that B3 games have a significant impact on the vulnerable. The Gambling Commission has produced evidence from industry data showing that session losses and session duration on B3s have comparability with B2 gaming machines. This is a concern as the rate of problem gambling associated with B3 machines is 4.2% in bingo premises

and 11.5% in betting shops. Both of these rates are significantly higher than the headline problem gambling rate of 0.8%. Officers will consider whether a submission should be made to seek changes to B3 stakes and prizes further (currently £2/£500).

Stakes and prizes on other gaming machines

- 5.12 The second proposal is to keep the current maximum stakes and prizes for all other gaming machines categories at the current level except category D gaming machines that offer prize gaming such as a crane grab machine. For category D machines that provide prize gaming it is proposed to increase the maximum stake and prize from £1/£70 to £2/£100. This small increase has been put forward by the industry and the government believes that the increase would be within keeping with the objective of this review and that these activities are low risk.
- 5.13 The Council's response may indicate that it is broadly supportive of maintaining the current stakes and prizes at the current levels and increasing the low risk prize gaming stake and prize. However, there are concerns with the impact of B3 gaming machines on the vulnerable and the increasing popularity of these machines.

Gaming machine allocations

- 5.14 The majority of responses to the government's call for evidence on gaming machine allocation limits on premises licences were from the Casino sector. The casino sector proposed to increase the number of gaming machines permitted within converted casino premises from 20 category B (they can have unlimited C or D gaming machines) to a gaming machine to table ratio similar to the approach already in place for small and large casinos (Westminster is not permitted to have any small or large casinos as the location of these premises is regulated). The proposed new ratio for converted casinos by industry was a 3:1 ratio with a maximum 80 machines.
- 5.15 The Government are minded to maintain the status quo relating to the number of gaming machines in casino premises.
- 5.16 Westminster has the highest number of converted casinos in the country. We have seen over the past 10 years some casino operators moving two casino premises licences into one premise with a clearly defined split to meet the statutory requirement that no premises can have two licences issued to it. The purpose of bringing two casino licences under one roof is to increase the gaming machines that can be offered on the premises, which is up to a maximum of 40. These venues are large and have the floor space to maintain the full casino environment without creating undesirable machine sheds. Casinos are also the most highly regulated gambling premises that are permitted within the country. That is why they are permitted to offer the highest category of gaming machine B1 with a maximum stake of £5 and maximum prize of £10,000.

- 5.17 Although maintaining the status quo may be appropriate, further consideration is needed in terms of Westminster's position.
- 5.18 Further proposals were made from Green King, an alcohol licensed premises operator, to increase the automatic entitlement for category C and D gaming machines in pubs from 2 to 4 which the consultation proposes to reject. The council's response will support that decision as there is already a process via gaming machines permits to obtain more gaming machines after an assessment of the risk from the licensing authority and the potential risk of increase gambling opportunities within licensed premises without suitable safeguards.
- 5.19 The arcade sector, via their representative association, proposed a new category of gaming machine for adult gaming centres which offered a maximum stake of £10 and a maximum prize of £125. The consultation does not seek to put this forward as a formal proposal and DCMS is not supportive of this option. The council is likely to support the consultation position not to add this new gaming machine type due to the risks associated with the proposal. Further evidence is required on the impacts of other types of gaming machines before new categories of machines are added to the regulatory framework.
- 5.20 There were proposals from the industry to permit contact payments from credit and debit cards. This would be a significant shift from the current regulatory framework which prohibits credit and debit card payments via gaming machines. As a result, the government will reject this approach which we are proposing to support.

Social responsibility measures

- 5.21 The government, as part of their call for evidence, requested responses on the effectiveness of social responsibility measures implemented by industry since 2013 and on the effects of gambling activities. The responses to the call highlighted the perceived inadequacies of industry codes on social responsibility, specifically relating to gaming machines.
- 5.22 Of particular note was the measures implemented by the Association of British Bookmakers (ABB) code on social responsibility. This code introduced voluntary measures that players could select to limit their spend and the time they play the machine. The measures were put in place on B2 gaming machines in betting shops and the results found that only 0.5% of machine sessions in the first month after its implementation included a voluntary time and money limit. The betting sector also introduced a Player Awareness System on B2 machines which provided information to the player during their session. However, the evaluation of that system found that it had potential but it needed improvement to be successful in its aims.
- 5.23 The Government is proposing that more work is needed in this area by the industry, and specifically, the evaluation of measures to ensure that they are effective. There is also a need to roll out social responsibility measures across all B1, B2 and B3 gaming machines rather than limit it to one sub-

category of machines. The government is also asking the Gambling Commission to look at and advise tracked play on category B machines. This would enable greater information to be gathered on player behaviour and those who may be at risk to gambling related harm.

- 5.24 The consultation document also refers to social responsibility measures for online gambling. The Licensing Authority is not responsible for regulating online gambling, which is the responsibility of the Gambling Commission. However, there are significant concerns over the social responsibility measures implemented by the online sector as well as the way that they advertise their products and games. The government has recognised this and proposed a number of measures that may address reduce the impact on the vulnerable and children.

Local Authorities

- 5.25 The Government requested in its 'catch all' questions views from local authorities in respect of other issues. The main respondent to this was from the LGA on behalf of local authorities and 29 other local authorities. They have proposed that a Cumulative Impact Assessment (CIA) provision should be implemented to provide more powers to manage gambling at a local level.

The DCMS response to this was that it believes that gambling can continue at a local level, and that existing powers can and should be used to ensure licensing objectives are met. The DCMS specifically refer to the new assessment of risk that local authorities can undertake, referred to as Local Area Profiles (LAPs). The LAP can be referred to within the Council's Statement of Gambling Principles (Policy) and set out the areas within the Council's area where certain key premises or areas have been identified as being at risk. DCMS refer to Westminster's approach where we have used the current powers effectively to reject gambling applications. This is a specific reference to the three betting shops that we have refused which have not been challenged and the local risk index produced on our behalf by Geofutures. They also refer to the powers under planning and the tools available within that regulatory regime.

- 5.26 DCMS considers that the current powers for local authorities are adequate and that a specific CIA requirement is not needed.
- 5.27 The Council's response to this will set out our approach and that although it has been effective there is still an assumption within the Act to permit gambling. Consideration will be given to whether additional powers would be welcomed and if those powers should be via a CIA.

6. Council response process

- 6.1 The Licensing Service will be preparing a response with the council's Policy officers. Any submissions from members will be considered in drafting that response to this consultation.

6.2 The final draft of the council's response to this DCMS consultation will be presented to the Cabinet Member for Business, Culture and Heritage who will approve the final submission to DCMS. The deadline for the submission to DCMS is the 23rd January 2018.

Appendices

Appendix 1 – Current summary of gaming machine categories and entitlements

Appendix 2 – Current summary of machine provisions by premises

If you have any queries about this report or wish to inspect any of the background papers, please contact:

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Background Papers

DCMS Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures dated October 2011

DCMS Impact Assessment (IA) on the Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures dated 31/10/2017

Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

Summary of machine provisions by premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Large casino(machine/table ratio of 5-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
Small casino (machine/table ratio of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
Pre-2005 Act casino(no machine/table ratio)	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead						
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D (except B3A machines)						
Bingo premises¹	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4					No limit on category C or D machines	
Adult gaming centre²	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4					No limit on category C or D machines	
Licensed family entertainment centre³	No limit on category C or D machines						
Family entertainment centre (with permit)³	No limit on category D machines						
Clubs or miners' welfare institute (with permits)⁴	Maximum of 3 machines in categories B3A or B4 to D						
Qualifying alcohol-licensed premises	1 or 2 machines of category C or D automatic upon notification						
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)	Number of category C-D machines as specified on permit						
Travelling fair	No limit on category D machines						

