

## Gambling Act Review

### Purpose of Report

For direction.

### Summary

This paper provides an overview of the proposals contained within the Gambling Act Review.

**LGA Plan Theme:** Supporting local people and places

### Recommendation(s)

**That the Board note the update on the Gambling Act Review and provides their views on the measures within it, particularly those that will directly affect licensing authorities.**

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## Gambling Act Review

### Background

1. In May, the Government published the [Gambling Act Review White Paper](#). The Government launched the Gambling Act Review in December 2020 and the [LGA submitted evidence in March 2021](#).
2. The Safer and Stronger Communities Board has been lobbying for reform of gambling regulation for many years. Historically, our focus has been on more powers for local decision makers to decide whether and where new gambling premises should open in their community and revising the aim to permit, and this was reaffirmed by the Board recently signing off a gambling licensing position paper which reiterates these priorities. Officers will use the position paper to inform our response to the Gambling Act Review white paper.

### Gambling Act Review proposals

#### Provisions that directly affect licensing authorities

##### More powers for licensing authorities

3. The LGA has consistently called for more powers for councils to decide whether and where new gambling premises can open in an area. In our gambling licensing position paper, we stated: “Whether through a cumulative impact assessment or other legislative tool, the Government should bring forward a new legal power which in specific circumstances would allow licensing authorities to override the statutory ‘aim to permit’ and refuse to grant new premises licences, including where this reflects the wishes of local residents.”
4. It is therefore welcome that the Review contains a commitment to consult on introducing cumulative impact assessments into gambling licensing legislation. Cumulative impact assessments are used to regulate alcohol premises under the Licensing Act 2003 and are a tool which give councils greater scope to refuse an application for an alcohol licence in areas where there are concerns that the density of premises in a particular area is having a negative impact on the licensing objectives.
5. The white paper states councils will be required to identify high risk zones in their gambling licensing policy and local area profile, and that gambling applicants will need to prove they will not add to the risk of harms in a local area. A cumulative impact assessment will also create a presumption against granting new licences in areas where there is already a saturation of gambling premises. The Government was clear that they

want to avoid removing the aim to permit altogether, as they believe this will challenge the core proponent of the Gambling Act: to approve gambling if it is consistent with the licensing objectives outlined by the Act. Discussions with Government officials indicate a view that licensing authorities already have sufficient powers to refuse premises, a position that many areas, contemplating the prospect of a legal challenge to a refusal, may not recognise.

6. It is welcome that the Government has listened to the LGA and pledged to introduce cumulative impact assessments; however, there are some limitations to this. Firstly, the change requires an amendment to primary legislation and the Government's commitment is to make the change 'when Parliamentary time allows'. It is unclear when this would be, although it is our understanding that Ministers at both the Department of Culture Media and Sport (DCMS) and the Department of Levelling Up, Housing and Communities (DLUHC) are supportive of these measures and would like to see them introduced in a timely manner. Secondly, the introduction of cumulative impact assessments will not help to prevent a new premises opening in an area with no/few gambling premises but which councils – or residents – feel is an inappropriate location, due to the proximity to a school or treatment centre, for example.
7. Overall, despite the limitations, the proposal is a step in the right direction. Whilst it would have been preferable to remove the aim to permit altogether, with the precedent of cumulative impact assessments in alcohol licensing, that option was always more feasible. The Board's views on the measure would be helpful.
8. The Gambling Act review also pledges to give councils increased powers in relation to gambling machines in alcohol licensed premises. In 2019 [a review of pubs in England and Wales](#) showed 84 per cent of them failed to prevent under 18-year-olds from playing on fruit machines. Throughout the white paper process, the Government has expressed concern about test purchase failure rates.
9. The Government has challenged industry to improve age verification and will legislate when Parliamentary time allows to strengthen licensing authority powers in respect of alcohol-licensed premises by making provisions in the Gambling Commission's code of practice binding.
10. Subject to consultation by the Commission on any changes to its code of practice, the additional powers for councils could include the ability to cancel the entitlement to additional gaming machines, vary the permit to change the number of machines allowed, or even remove the automatic entitlement to site gaming machines where there is a failure to prevent underage gambling. The changes to the code of practice for clubs and

pubs would also be reflected in Gambling Commission guidance to licensing authorities.

11. It is likely these measures will also assist councils with their work on enforcement. LGA officers will engage with licensing officers to understand their views on these proposals, but initial feedback suggests they will be helpful. The Board's steer would also be useful.
12. It is positive that the overall messaging in the White Paper demonstrates that the Government views gambling related harms as a public health issue. However, there is a lack of tangible public health measures within the White Paper. Our gambling licensing position paper called for the introduction of health as a licensing objective under the Gambling Act and we will continue to reiterate this point. The Gambling Commission has also recommended that Government considers formalising the powers of local or national public health authorities under the Gambling Act, with uncertainty currently about whether public health is a responsible authority or not (and therefore whether their evidence and advice should be considered in local decision making in respect of gambling): the Act currently refers to 'an authority which has functions in relation to pollution to the environment or harm to human health' being a responsible authority, which has traditionally been seen as environmental rather than public health. It would be helpful to understand if the Board is happy to support clarification/ formalisation of the public health role.

### **Licensing fees**

13. The white paper also contains a commitment to consult on increasing the cap on licensing authority premises fees in England and Wales, which is welcome.
14. The white paper stated that responses from licensing authorities to the call for evidence focused more on powers than on raising the maximum fees which can be charged for premises licences. This is consistent with feedback LGA officers have received.
15. However, the Government is mindful that the current cap for licensing authority licensing fees has not been updated since 2007, while the costs associated with gambling licensing will have increased. The Government also recognises that the introduction of cumulative impact assessments may also increase costs, as will greater enforcement, and wants to ensure councils are adequately reimbursed for this. Officers will assist with the consultation as required.

## Land-based premises:

### Casinos

16. The white paper also contains several technical proposals relating to land-based casino and bingo premises licensing. In relation to casinos, the white paper seeks to:

- 16.1. Amend machine to table ratios to align small and large casinos (as small casinos have struggled to be financially viable)
- 16.2. Allow casinos to offer sport betting, alongside other activities
- 16.3. Allow casinos to offer credit to non-UK residents, subject to thorough financial risk and anti-money laundering checks
- 16.4. Consider allowing a wider range of games on electronic terminals at casinos
- 16.5. Work with the Gambling Commission to develop specific consultation options for cashless payments, including the player protections that would be required before the removal of the prohibition
- 16.6. Write to local authorities with unused casino licences to ask them to confirm whether there is an intention to develop the licence. Where an authority has no intention of progressing a licence, the Government will offer up unused licences for reallocation to other areas that may want a casino. This would introduce 'portability' of casino licences.

17. In September 2021, the Board discussed draft proposals relating to casinos (which were very similar to the measures above) following a DCMS request for feedback. The Board decided not to comment on the detail of how casinos operate but emphasised the importance of councils being able to agree a 'no casino' resolution if they want to, which blocks new casinos from opening in a local area. The proposals outlined in the white paper will not affect council's ability to pass a no casino resolution.

18. However, concerns have been raised around the proposal to introduce portability of casino licences and whether this could mean local areas that have not passed a no casino resolution may receive an application for a casino licence, which would then be subject to the 'aim to permit'. However, for some councils this will be positive: we are aware some councils that would like a casino to boost their tourism offer. Officers will seek further clarity on this proposal but will be clear if this proposal is to be introduced, councils should be advised of the need to adopt a no casino resolution if they do not want to permit one.

### Bingo premises

19. In relation to bingo premises, the white paper seeks to:

- 19.1. Adjust the 80/20 ratio which governs the balance of Category C/D and Category B machines in bingo and arcade venues to 50/50, to ensure that businesses can offer customer choice and flexibility
  - 19.2. Pilot new machine games under certain conditions with the close involvement of the Gambling Commission
  - 19.3. Allow trials of linked gaming machines in venues other than casinos, where prizes could accrue from machines linked in a community
  - 19.4. Explore the circumstances where licensed bingo premises might be permitted to offer side-bets in a more flexible or expanded form within a defined set of parameters with rules to reduce the risk of harm.
20. This is likely to increase the number of category B machines (maximum stake £2), compared to Category C/D machines (maximum stake £1). Officials at DCMS have advised that the reason they are bringing forward these changes is to remove old machines that are not energy efficient and take up a significant amount of space, although in practice it is likely to lead to more relatively higher stakes machines in most likely more deprived areas. We have heard some concerns from other stakeholders, but not from councils at this stage. It would be helpful to understand the Board's views on these proposals.

#### **Wider provisions of interest to councils**

21. The white paper also proposed a number of actions which are not directly linked to the role of licensing authorities as a regulator but will nevertheless be of interest to councils.
22. We are pleased the Government has listened to the calls of the LGA and other stakeholders and will consult on introducing a statutory levy paid by operators and collected by the Gambling Commission under the direction and approval of Treasury and DCMS ministers, in line with the Gambling Act. The amount of the levy will be determined by the consultation and it remains to be seen which body would be responsible for spending the sums raised given that the Commission is not a treatment commissioning body.
23. The Board should note that this places the charity Gambleaware in an uncertain position. The majority of Gambleaware's funding is made up of voluntary industry donations, and Gambleaware use that money to fund treatment, education and research. Currently, they fund a significant amount of the treatment services available. Whilst Gambleaware has taken steps to ensure its independence from industry, some stakeholders, particularly stakeholders from public health, feel that Gambleaware has a conflict of interest.
24. Moving forward, the Government wants to demonstrate the independence of funding from the industry, which is why they want funding to be distributed by the Gambling

Commission. It is unclear how this funding distribution will work, and we are mindful of the risk that over time funding originally intended for gambling harm may be absorbed into wider budgets. The LGA could call for funding generated by the mandatory levy to be ringfenced specifically for gambling related issues, but public health colleagues have advised that it is also important that funding is available for prevention and regulatory measures, as treatment/education have limited impact at the population level.

25. The Government also intends to introduce other measures, including:

- 25.1. Online protections, such as player set deposit limits, stake limits, and background checks on individuals who may be experiencing gambling harms.
- 25.2. Advertising, such as reviewing the targeting of free bets, giving customers greater control over the marketing they receive, and strengthening informational messaging on gambling harms, in a campaign that will be led by Government.
- 25.3. More funding and powers for the Gambling Commission to support improved enforcement activity.
- 25.4. Working with UK Research Innovation (UKRI) to stimulate interest in investing in gambling research and improving access to data on gambling harm to support research efforts.
- 25.5. Creating an ombudsman to help with dispute resolution and consumer redress.

## Implications for Wales

26. The Gambling Act 2005 applies in both England and Wales. The LGA will continue engagement with colleagues at the Welsh LGA on gambling licensing.

## Financial Implications

27. There are no direct financial implications for the LGA. The report has outlined the possible financial implications for councils.

## Equalities implications

28. There are equalities concerns associated with gambling, with evidence showing certain groups are at a higher risk of gambling harms, and that clustering of gambling premises tends to occur in more deprived areas. In 2021 [Public Health England published a comprehensive gambling-related harms evidence review](#). The findings of this review will continue to inform the LGA's work on gambling.

## Next steps

29. Officers will respond to relevant Government consultations relating to the proposals in the White Paper. We will also follow up with the Minister for Gambling, Stuart Andrew MP, to arrange a meeting between him and Cllr Caliskan, in line with his commitment in recent correspondence with the LGA.