

LGA Betting Commission outcome and future approach to LGA policy on gambling regulation

Purpose

To outline a comprehensive approach for the LGA's future work on local gambling regulation, for discussion and decision by the Board.

Summary

This paper updates the Board on the outcome from the LGA's Betting Commission work and seeks endorsement of the *Framework for local partnerships* developed by the Commission. It also seeks approval for a proposed future policy position for the LGA in relation to gambling issues

Recommendation

The Board approve the recommendations in this paper.

Action

Officers to progress as directed.

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Background

1. In September 2014, the final meeting of the LGA 'Betting Commission' agreed a '*Framework for local partnerships*' with the aim of facilitating better joint working between councils and betting shops at a local level in order to address issues linked to betting shops. Following this, councillor members of the Commission met to develop a set of wider recommendations for the LGA's future policy position in relation to gambling for consideration by the Board
2. This paper suggests an overall strategic approach to local gambling regulation, that is based on:
 - 2.1. Strengthening local gambling regulation in the current framework, through supporting councils to make more effective use of existing powers and working with industry where possible.
 - 2.2. The need for legislative changes to address betting shop clustering / the risk of harm from FOBTs.
3. The proposed approach ensures a pragmatic focus on what more can be done in the current system while also being clear about the changes we believe *should* be implemented to provide a fairer balance between industry's rights to trade and the desire of communities and councils to shape their local areas.

Strengthening local gambling regulation in the current framework

4. Our primary work focus will be to strengthen local gambling regulation by supporting councils to use existing powers more effectively. This will be achieved through the following activity.

The Betting Commission framework for local partnerships

- 4.1. The Betting Commission indicated that there is clearly an appetite within the industry to work more effectively with councils to address issues linked to betting shops and improve the industry's reputation; equally, it showed that there is scope for councils to engage more with the industry where they believe there are issues linked to betting shops.
- 4.2. The Commission therefore agreed a framework for local partnership working between councils and betting shops (attached at annex 1), to be signed by the LGA and Association of British Bookmakers. The objective is to facilitate local joint working between councils and betting shops, based on taking an evidence-based and better regulation approach.
- 4.3. The framework recognises that councils and the industry will continue to have different views on gambling regulation. Furthermore we accept that the framework will not offer a solution in places where relationships between the council and

industry representatives have deteriorated and / or where there are very deep-seated concerns about clustering and / or FOBTs.

- 4.4. However, the Betting Commission was firmly of the view that there is significant scope for the framework to support and encourage joint working in many local areas and that a public commitment to a more collaborative approach would be helpful. It is therefore proposed that the agreement will be launched at the annual licensing conference on 15 January 2015.

Updating the LGA's Gambling Handbook for councils

- 4.5. In early 2015, we will publish an updated LGA Gambling Handbook for councillors and officers, to support councils as they develop their new licensing statements of policy by 2016. The update will reflect recent concerns about gambling, and include information about the Betting Commission partnership approach. It will also highlight key information from the forthcoming updates to the Gambling Commission's licensing conditions and codes of practice for gambling operators and guidance to licensing authorities.
- 4.6. Alongside this we will also be working with the Gambling Commission to develop a short guidance note on making representations under the Gambling Act 2005.

Funding research into the link between gambling related harm and local areas

- 4.7. Finally, we have also agreed a grant of £30,000 to Westminster City Council to part-fund a research study (being undertaken jointly with Manchester City Council) that aims to assess area vulnerability to gambling related harm. The research objectives are to understand groups that are vulnerable to gambling-related harm; explore how vulnerability might be measured locally; and develop a diagnostic tool that measures area vulnerability. This will help the council to develop appropriate gambling strategies and action plans.
- 4.8. The diagnostic tool and research will be made available to the wider local government sector once the project has concluded.

Future policy lobbying on changes to the current system of gambling regulation

5. We believe that the multi-faceted approach outlined above will enable councils to shape more effective local gambling regulation. However, councillor members of the Betting Commission were also unanimously of the view that current council controls on betting shop are inadequate and that this will not be addressed through creating a new planning use class for betting and payday loan shops or through the proposed new measures relating to FOBTs. A series of policy positions for the LGA to adopt are therefore proposed as follows.

Betting shop clustering

- 5.1. Existing clustering will only reduce as and when current shops close. However, there is a strong likelihood that as the largest chains close premises, challenger brands will seek to acquire new premises, and / or that larger brands will continue to seek

transfers of licences from independent bookmakers, meaning that the issue of clustering could be perpetuated.

- 5.2. To address this issue, the **government should amend the Gambling Act 2005 to reintroduce the demand test**; additionally, **councils should have the statutory right to create cumulative impact zones** in stress areas where there are already high numbers of betting shops.
- 5.3. To ensure maximum effectiveness of these tools, the **onus should be on an applicant to prove that there is a demand for an additional premise**, rather than for a council to prove that there is not.
- 5.4. In taking this position, the LGA should – as previously – acknowledge that clustering of any type of business activity can be damaging, whether betting shops, estate agents, coffee shops or charity shops. However, in regard to betting shops the licensing route, rather than the planning framework, is the appropriate mechanism for addressing concerns about betting shop clustering.

Gambling Act objectives

6. It is also proposed that the **LGA should call for the addition of new Gambling Act objectives**. Specifically:
 - 6.1. An objective relating to **the prevention of public nuisance**. This is one of the four objectives under the Licensing Act, and offers a more effective threshold for tackling lower-level anti-social behaviour that can equally apply to betting premises as well as premises serving alcohol.
 - 6.2. In line with our Rewiring Licensing proposals, **a public health objective**.

Fixed odds betting terminals

- 6.3. The meeting in October also discussed the issue of FOBT stakes. The LB Newham / Campaign for Fairer Gambling Sustainable Communities Act are developing a Sustainable Communities Act proposal to reduce the maximum FOBT stake from £100 to £2.
- 6.4. Our discussions on FOBTs have focused on the risk to those who cannot afford to lose large sums of money on machines, rather than on the link to clustering, which Newham's campaign highlights. Concern was noted that simply reducing FOBT stakes does not remove the risk of people gambling large amounts of money they cannot afford to, as there is nothing to stop an individual from gambling £2 fifty times. Members therefore felt that the process of inserting money to machines should be slowed; accordingly, our response to the recent Gambling Commission consultation reflected this view. Furthermore, the **importance of developing further player protection measures based on the forthcoming research exploring harmful patterns of play on gaming machines was emphasised**.
- 6.5. However, it was also noted that the recent government requirement for anyone gambling more than £50 on a FOBT to engage with a betting shop manager or use account based play would be largely ineffective, since in deprived areas typical

stakes are around £20-£30. **On balance, it was agreed that it was desirable for FOBT (B2) stakes to be brought into line with maximum stakes for other types of gaming machine.** Current maximum stakes for other gaming machines allowed in betting shop premises are £2 and £5 in casinos.

- 6.6. It was also suggested that councils should have the power to determine that a betting shop should not include any FOBTs, for example being able to apply a demand test specifically to FOBTs. We have previously argued that incorporating the 'primary activity' test into the Gambling Act would enable councils to refuse licences where they do not believe the primary focus of the shop will be betting rather than gaming. Councils that have tried to refuse licences based on the references to primary activity in the Gambling Act guidance have been the subject of successful legal challenges. **It is proposed that the LGA should therefore continue to support the introduction of the primary activity requirement into the GA 2005.**

Summary

7. The aim of outlining a comprehensive list of desirable policy changes is to provide a set of options for addressing issues linked to clustering and FOBTs: we are not proposing that all of these changes should be implemented. Developing a set of options could increase the likelihood that one or more of them may be adopted as it is likely that some (for example, cumulative impact zones) are likely to be more attractive than others (such as the return of the demand test).

Next steps

8. Members are asked to:
- 8.1. Endorse our work up to Spring 2015 to support more effective local regulation in the current framework, including the launch of the LGA-ABB *Framework for local partnerships* at the annual licensing conference on 15 January 2015.
 - 8.2. Agree an LGA policy position which calls for government to adopt one or more of a number of possible options for addressing concerns about clustering and FOBTs as outlined above.
9. We have worked hard to ensure and believe that these two positions are consistent; it is reasonable to seek to make best use of the current system while also calling for the system to be improved. However, our partnership work with industry will inevitably shape how we put forward our proposed policy positions. Future media and communications activity in particular will need to be tempered - compared to perhaps a more strident approach in previous years - to reflect our work with the ABB / industry and the constructive approach of the Betting Commission. While this should not entail a complete cessation of media comment on issues on which we do not agree with industry, it would mean that future lobbying work should acknowledge the effort being made by industry within the current framework to resolve some of the issues and concerns.

Financial Implications

18. None.