

# Responding to the cumulative impact of betting shops

A practical discussion guide for London  
boroughs

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**LHIN**

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## Foreword

The London Health Inequalities Network (LHIN) commissioned The Outcomes Group to develop a cumulative impact policy statement (CIPS) for betting shops. The LHIN consists of directors of public health and their health inequalities leads from the 11 most deprived boroughs in London, including Barking & Dagenham, City & Hackney, Greenwich, Hammersmith & Fulham, Haringey, Islington, Lambeth, Lewisham, Newham, Southwark, and Tower Hamlets. The Healthier High Streets Working Group (HHSWG) has overseen the development of this resource.

This discussion document has been produced in response to concerns about the impact of betting shops and in particular Fixed Odds Betting Terminals (FOBTs) or category B2 machines. Some licensing authorities ('local authorities' in England and Wales) have expressed concerns about the clustering and location of betting premises since the Gambling Act 2005 came into effect. *Responding to the Cumulative Impact of Betting Shops – A practical discussion guide for London boroughs* is intended to provide a framework for licensing authorities to assess and consider the merits of introducing a cumulative impact policy statement (CIPS) for betting shops within the existing licensing and planning regulatory framework, and in particular, within local gambling licensing policies.

A CIPS takes the form of a special policy (as part of the statement of licensing principles for gambling) where a specific cumulative impact zone (a geographic area) is designated. The evidence from alcohol suggests that limiting the density of premises can be an effective tool in reducing public nuisance, disorder and the undermining of the Licensing Act 2003 objectives. Before consideration is given to a CIPS for betting shops, licensing authorities must have a sound evidential basis. The evidence must show that the effect of allowing further betting premises in a particular area undermine the Gambling Act (2005) objectives. This resource is not a methodology for proving or disproving the cumulative impact but rather it seeks to outline the broad range of issues that licensing authorities must consider when considering policy responses to the negative impacts of betting shops. The document is intended to act as discussion guide for licensing authorities.

To date, there has been a limited interface between the licensing of betting shops and practice of protecting and promoting the health of local residents. Public health should be a key stakeholder interest group making evidence-based representations on the impact of gambling licensed premises of local residents. Health and Well-

being Board members can play an active role in co-ordinating services and ensuring that tackling health inequalities is at the heart of local plans and strategies. More needs to be done at a local level to understand residents' needs in relation to problem and at-risk gambling. Health and Well-Being Boards and Joint Strategic Needs Assessments should facilitate cross-sector working. Joined-up working and quick referrals to specialist services would help to get professional support to those who need it.

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## Introduction

The Gambling Act (2005) was introduced in recognition of the need to update a regulatory framework that had been in place for nearly 40 years. The new regulatory framework removed the controls limiting access and availability to many forms of gambling opportunities. The broad intention of the 2005 Act is to permit the expansion of certain types of gambling opportunities (e.g. betting shops), at the same time as introducing strict licence conditions and codes of practice for all gambling operators<sup>1</sup>. The revised regulatory framework included the Gambling Commission, a new independent regulator for all commercial gambling activities in Great Britain<sup>2</sup>. The Gambling Commission is required to regulate gambling in the public interest and in accordance with the three licensing objectives:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
2. Ensuring that gambling is conducted in a fair and open way, and
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Since the new Act came into operation in September 2007, the issue of betting shops has received much attention by local authorities, local and national media. The attention is often prompted by residents' objections to an application for a betting premises licence in their neighbourhood. Reasons for objections often relate to perceptions of the location, proliferation and clustering of betting shops on the high street, and particularly the perceived negative impacts (anti-social behaviour, litter, noise) caused by the number of and/or 'clustering' of betting shops in the area<sup>3</sup>. In response to community concerns, some licensing authorities have instituted enquiries and reports exploring the range of policy and regulatory tools to respond to community concerns about betting shops<sup>4</sup>. The Mayors of Hackney and Newham have written to other London boroughs seeking support on proposals to change the existing planning and licensing systems with regard to controlling betting shops<sup>5</sup>. As was the case with the introduction of the Licensing Act (2003), concerns about the evidenced negative impacts of licensed alcohol premises led licensing authorities to introduce 'saturation' zones as a policy response. These zones ended up forming the basis of cumulative impact policies, which are now provided for under the alcohol regulatory framework, and which licensing authorities may introduce provided certain criteria are met<sup>6</sup>. *Responding to the Cumulative Impact of Betting Shops – A*

*practical discussion guide for London boroughs* provides a framework for licensing authorities to assess the merits of introducing a local CIPS in relation to betting shops. The issue of CIPS in a gambling context remains somewhat theoretical as no licensing authority has taken the step of including a CIPS in its statement of gambling principles and therefore the issue of the 'legality' of considering cumulative impact in relation to betting shops (or other forms of terrestrial based gambling) remains untested<sup>7</sup>.

It is important to state that it is recognised that betting shops are engaged in a legitimate commercial activity and part of the retail mix on the high street. Betting shops offer employment and leisure opportunities and other social and economic benefits. However, gambling (like alcohol) is no ordinary commodity. For some groups, gambling is not without harm, risk or problems. Apart from the personal impacts, there can be negative impacts on families, social networks and the wider community.

This resource sets out the case for licensing authorities to consider CIPS in relation to betting shops where there is an *evidence-based* undermining of the licensing objectives of the Gambling Act 2005. It serves to act as a starting point for discussion and for licensing authorities to pick up, test, pilot and further develop. The development of this resource was informed by a number of discussions and interviews with licensing stakeholders in local authorities. The resource begins by looking at betting shops and the particular community concerns about them. It looks at CIPS in relation to alcohol and it considers how a CIPS might apply in relation to betting shops.

The case for considering a CIPS for betting shops will largely depend on available data at a local level. Where community concerns and objections are raised in relation to betting shops and there is limited availability of data, it may be that licensing authorities need to invest in primary data collection to better understand the nature of the impact of betting shops within their borough. Given the 'permissive' nature of the Act towards gambling, a word of caution should be sounded in that any data or evidence gathered as part of considering a CIPS should be considered in its totality and examined critically for flaws and limitations. Licensing authorities should note that interpretation of the Act is ultimately a matter for the Courts and that they should take their own legal advice on the application and interpretation of the Gambling Act and, within that framework, the application of this resource in their borough.

## Chapter One: Betting Shops

### 1.1. What is meant by 'betting' and a 'betting shop'?

Betting (general) is defined by section 9(1) of the Gambling Act 2005 as the “making or accepting of a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring; or whether anything is or is not true.” General betting licence holders are able to offer facilities for betting: At premises-based bookmakers (off-course); On tracks (on-course); And by remote means (including online gambling).

Betting shops on the high street are required to hold a general betting operating licence and a betting premises licence. Apart from traditional over the counter betting activities, these betting shops are able to have up to four gaming machines of category B, C or D. Machines are defined by categories depending on the maximum stake and prize available<sup>8</sup>. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines. Betting shops on the high street are entitled to make available category B2 machines<sup>9</sup> or Fixed Odds Betting Terminals (FOBTs). It should be noted that FOBTs may contain three categories of games - category B2 or 'casino games' (maximum stake £100 and maximum prize £500); category B3 or 'slot games' (maximum stake £2 and maximum prize £500); and category C (maximum stake £1 and maximum prize £70). FOBT is a term used historically when these particular machines fell outside the scope of previous gambling regulation. However, today in practice, a “FOBT” is often referred to as a category B2 machines (the highest stake and prize machine permitted in betting shops) and it may also include category B3 and C machine games.

### 1.2. What is the issue with betting shops?

Historically, attitudes to gambling in Britain have tended to be negative. The last two prevalence surveys reflect a general view that gambling is more harmful than beneficial and should not be encouraged<sup>10</sup>. Such attitudes may also apply and contribute to perceptions around the impacts of betting shops.

A number of London Licensing authorities have conducted inquiries into betting shops in response to specific local concerns that have often arisen in the form of objections to applications for betting shops premises licences. While issues in each



borough may vary slightly, some common themes tend to emerge. Broadly, the concerns can be summarised as follows:

- Proliferation of betting shops since the Gambling Act 2005 came into force;
- Clustering of betting shops in the most deprived areas, and the impact on the vulnerable;
- Anti-social behaviour in and around betting shops;
- Longer term sustainability of the high street.

*Proliferation of betting shops since the Gambling Act 2005 came into force.* There is a perception that there has been an overall increase in the number of betting shops over recent years. The figures differ in each licensing authority area. By way of illustration, since 2007, there have been 27 new betting premises licences issued by Westminster City Council. But during that same period 12 licences were surrendered making a net increase of 15 premises in 6 years<sup>11</sup>. In its 2011 report, Haringey Council found no evidence of an overall increase in the number of betting shops in Haringey since the Gambling Act 2005 came into effect. In providing evidence to the Culture, Media and Sport Select Committee as part of the 2011 review of the Gambling Act, the Association of British Bookmakers claimed that there was no net increase in the number of UK betting shops since the Act came into effect in September 2007<sup>12</sup>. Some commentators have noted that there was some creep and growth in betting shops numbers preceding the introduction of the new Act.

*Clustering of betting shops and their location in the most deprived areas and impact on the vulnerable.* A 2012 analysis by Geofutures on behalf of *Channel 4 Dispatches* showed that there were clear clusters of bookmakers in town centres across Great Britain and that those town centres with the highest density of betting shops were areas where the resident population was typically poorer and constrained by their economic circumstances<sup>13</sup>. As noted in the supplementary documents to the analysis, traditionally betting with a bookmaker is a leisure pursuit of the working classes and was a popular activity among the masses even before commercial bookmakers existed. The British Gambling Prevalence Survey (2010) indicates that betting on horses, dogs and other sporting events were not occupational class related, although problems relating to these gambling activities tended to be higher for routine and manual groups. An argument made by the betting industry is that bookmakers are simply focusing their commercial trade on areas where there is a local population likely to use their services, there is a passing footfall for their

services and where rents and overheads make it commercially viable. However, social determinants research clearly demonstrates that 'place matters' and that people living in deprived neighbourhoods tend to experience poorer health outcomes.

*Anti-social behaviour in and around betting shops.* In a 2012 publication<sup>14</sup>, Paddy Whur (licensing solicitor) outlined a case where he was asked to advise a London borough in relation to an appeal against a refusal to grant a betting premises licence. The licensing authority initially refused the application after receiving representations from the Police and a local Ward Councillor along with a petition containing 200 signatures from local people who did not want the betting shop to be granted in their neighbourhood. The arguments raised by the objectors included:

- Fear that the already high levels of crime in the area would be exacerbated by an additional betting shop;
- That there was a problem outside existing betting premises caused by street drinkers and smokers;
- Littering outside the shops;
- Concerns about a clustering of betting shops.

In the end, the licensing authority granted the betting premises licence with additional conditions attached to the licence.

*Longer term sustainability of high streets.* With town centre vacancy rates doubling since 2007 and a reduction in consumer spending on the high street due to the current economic circumstances and online competition, there are a number of concerns about the future of high streets. There is a concern about the declining retail mix as businesses shut up shop on the high street and betting shops replace these businesses. There are limits within the existing system of 'use-class' to control the number, location and overall distribution of betting shops on the high street.

### **1.3. What is the issue with Category B2 machines?**

Under the Gambling Act, high street betting shops are entitled to a maximum of four category B2 machines per premises. FOBT machines offer quick-fire casino games allowing players to stake up to £100 on a 20-second spin of the wheel. Concerns about FOBTs indicate that it is the high stakes and fast nature of the games that allow players to lose money quickly. Reports of players losing large amounts of money on FOBT machines are not uncommon<sup>15</sup>.

FOBT machines are a relatively new form of gambling having only appeared on the high street over the last decade. Prior to the 2005 Act, FOBTs were not classed as gambling machines under existing legislation so there were no limits on where they could be placed and in what numbers. Stakeholders concerned about the impacts of gambling machines, note that FOBTs were introduced without any proper impact assessment<sup>16</sup>. However, the increase in the availability of these machines has been significant over a short period of time. In a submission to the Culture, Media and Sport Select Committee in 2011<sup>17</sup>, Deputy Leader of the Labour Party - Harriet Harman referred to Gambling Commission statistics stating that there were around 32,000 B2 gaming machines operated through bookmakers and Licensed Betting Offices (LBOs). This is nearly double the 16,380, which existed in 2006/07. Data reported from the Association of British Bookmakers suggests that high street betting shops are changing and that machines in betting shops are accounting for a greater proportion of overall incomes. According to the ABB, the percentage contribution of machine income to average betting shop profits was 39.9% in 2008 and rose to 49.4% in 2011<sup>18</sup>.

A key public health policy question is to understand the demographic sources of revenue across the gambling industry or, put another way, to what extent the gambling industry (and its individual) sectors are reliant on income derived from at-risk or problem gamblers. A secondary analysis<sup>19</sup> of the 2010 British Gambling Prevalence Survey data provides an insight into the contribution of people with gambling problems to total gambling spend. Responses to questions about frequency of gambling and average monthly spend on different forms of gambling were used to derive estimates of the percentage of all of the spend attributable to people with gambling problems. Estimates were then calculated in two different ways and two different problem gambling screens (Diagnostic and Statistical Manual of Mental Health Disorders, fourth edition (DSM-IV+ and the Problem Gambling Severity Index (PGSI) were used, yielding four separate estimates in all. Finally, these results were averaged out to produce a single 'best estimate' of the percentage of all losses coming from people with gambling problems. It is important to note that these estimates should be treated as approximations only. The television programme *Channel 4 Dispatches*, took the analysis further by combining the estimates with the total net takings (Gross Gambling Yield) from some of the major forms of British gambling (figures available from the Gambling Commission) in order to arrive at estimates of the total amounts of money being taken annually from people with gambling problems. FOBTs may be costing people with gambling

problems in the region of a quarter of a billion pounds a year. (23% of the gross gambling yield £1,295m). Other forms of gambling that appear to take in the region of £50m to £75m annually from people with gambling problems include table games in casinos, betting on dog races, betting on horse races, and slot machines in arcades<sup>20</sup>. A secondary analysis of the 2007 British Gambling Prevalence Survey also demonstrated that category B2 machines had a statistically significant association with problem gambling<sup>21</sup>. Deputy Leader of the Labour Party - Harriet Harman has called for a reduction in the limits on stakes and prizes for B2 machines<sup>22</sup>. The Campaign for Fairer Gambling is campaigning to reduce the maximum stake on FOBTs from £100 to £2 in line with other category B machines.

#### 1.4. Who are the vulnerable groups?

The British Gambling Prevalence Survey (2010) identified a number of vulnerable groups in relation to gambling. These are:

- 16-24 year olds
- Asian and Black British
- The unemployed
- Heavily engaged gamblers
- Those whose parents were regular gamblers and who had gambling problems
- Current smokers
- Those who rated their general health as bad or very bad.

While this data is only available at a national level, it is consistent with findings from prevalence surveys conducted in other jurisdictions<sup>23</sup> and therefore likely to be applicable in local populations. Recent data from the GamCare helpline<sup>24</sup> showed that 46% of its clients aged 18-25 were gambling in betting shops and FOBTs (30%) were the most common form of gambling activity among problem gamblers aged 18-25, after betting (31%). 27% of callers under 18 cited FOBT/roulette machines as a problem<sup>25</sup>. Given that customers must be over 18 to enter premises where FOBT machines are available, this is of particular concern.

In its 2012 strategy, the Responsible Gambling Strategy Board indicates that there is strong evidence that some people will present for help with a related problem such as debt, alcohol, drugs or mental health rather than an ostensible gambling problem. The central point being that the gambling problem might not be directly addressed,

may be addressed but not formally recorded, or the data not reported. It goes on to suggest that further work at a local level needs to be done to understand the role that other agencies, such as Citizens Advice and the NHS, play in delivering interventions and the effectiveness of these interventions<sup>26</sup>.

## **Chapter Two – Cumulative impact policies in practice (alcohol)**

### **2.1. What is a CIPS (the case of alcohol premises)?**

Cumulative Impact refers to the impacts arising from a concentration of particular types of premises in a defined area. Cumulative impact may be associated with a range of positive and negative effects, depending on the physical and environmental setting, the mix of premises, and their operating conditions. Positive outcomes can include the creation of a local identity or status as an entertainment destination, enhanced vitality, economic benefits, and an increase in consumer choice. Negative outcomes of cumulative impact can include crime, a loss of amenity or 'special character' within an area, public nuisance and anti-social behaviours.

A CIPS takes the form of a special policy (as part of the statement of licensing principles for gambling) where a specific cumulative impact zone (a geographic area) is designated. Cumulative impact policies have been employed by a number of London Boroughs<sup>27</sup> to tackle problems associated with licensed premises selling alcohol. In the case of alcohol, evidence shows there is a relationship between the increased density of premises and alcohol consumption and also between density and harm<sup>28</sup>. The evidence suggests that limiting the density of premises can be an effective tool in reducing public nuisance, disorder and the undermining of the Licensing Act objectives. In the case of alcohol, licensing authorities can only take into account data linked to existing licensing objectives (usually crime and disorder, and public safety) when making decisions about cumulative impact and so cannot fully consider the full range of alcohol-related harms in their area (for example data on health problems such as liver disease or alcohol-related deaths). By way of comparing alcohol and gambling, a 2013 report published by Alcohol Concern Cymru and the Royal College of Psychiatrists (RCPsych) in Wales considers alcohol and gambling, and the harms each can cause, side-by-side<sup>29</sup>.

### **2.2. What does a CIPS do?**

Licensing authorities when developing their statements of licensing policy can consider cumulative impact. A CIPS can be introduced and included in this policy on the basis of any one or more of the four licensing objectives being undermined and

where problems are linked to the impact of licensed premises concentrated in a specific area<sup>30</sup>.

The effect of adopting a CIPS is to create a rebuttable presumption that applications for new premises licences will normally be refused if relevant representations are received. Applicants must address the CIPS and produce evidence to demonstrate how the application will not add to cumulative impact and challenges already being experienced in the area, or undermine the promotion of the licensing objectives. The applicant must produce evidence to rebut the presumption to refuse an application. The presumption to refuse an application does not relieve the licensing authority or 'interested parties' of the need to provide supporting evidence in conjunction with a relevant representation should this be made.

A key difference between alcohol and gambling is that the prevention of public nuisance is a specific licensing objective under the Licensing Act 2003. The Gambling Act 2005 contains no such provisions and the parallel objective in relation to 'preventing gambling being a source, associated with, or used to support crime and disorder' – has a specific meaning in the context of the guidance issues to licensing authorities<sup>31</sup> (see below).

### **2.3. CIPS and gambling – legality?**

Nowhere in the Gambling Act, the range of secondary legislation enacted under it, or the guidance to licensing authorities, is anything found about cumulative impact in relation to premises licences. In the case of alcohol, the issue of cumulative impact was addressed in the first edition (2004) of guidance issued to licensing authorities under the Licensing Act 2003<sup>32</sup>. Thereafter, there was an initial slow uptake of Cumulative Impact Policies by licensing authorities that has accelerated and has widened their remit to include larger geographical areas within the borough while also including off-licenses and late night food premises.

Legal opinion differs on the issue of cumulative impact as it applies to gambling. The introduction of a CIPS remains somewhat of a theoretical argument as no licensing authority has taken the step of including a CIPS in its statement of gambling principles and therefore the issue of 'legality' remains untested. Such an introduction still requires licensing authorities to consider matters within the scope of the guidance to licensing authorities, Gambling Act 2005 and the Licence Conditions and Codes of Practice.

In the course of collecting data to inform the development of this document, a number of exploratory discussions were held with regard to the legal implications of introducing a CIPS in relation to gambling. One such opinion indicated that in the absence of a specific mention of cumulative impact policy statement in the Gambling Act and other relevant legislation and guidance, there is no reason in principle why a CIPS aimed at restricting the growth in the number of betting shops in an area should not be as lawful as similar policies relating to premises selling alcohol. Taking this position, a number of reasons are provided that support the idea of a CIPS:

- 1) Section 153 of the Gambling Act that requires an authority to '*aim to permit premises to be used for gambling*' does not run counter to the idea of a CIPS because that requirement is dependent on an application being 'reasonably consistent' with the licensing objectives.
- 2) The approach of Beatson J in the case of R (J D Wetherspoon PLC) vs. Guildford Borough Council was to ask whether the Licensing Act 2003 or the guidance **precluded** the application of the policy in question. Asking the same of CIPS relating to betting shops would indicate that they are not precluded by legislation or guidance.
- 3) The statutory provisions for an authority's licensing policy under the Gambling Act (section 349) are broadly similar to the provisions in the Licensing Act (section 5) dealing with the authority's statement of licensing policy.
- 4) The legitimacy of a CIPS under the Licensing Act 2003 is dependent on its being aimed at "the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises concentrated on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement"<sup>33</sup>

Licensing Act 2003 guidance<sup>34</sup> may provide a steer on the types of considerations a licensing authority should contemplate when introducing a CIPS under the Gambling Act. Where there is any conflict between the Licensing Act guidance and the Gambling Act regulations, it may be resolved in favour of the regulations<sup>35</sup>. The Licensing Act guidance is clear that the introduction of a CIPS must be on an evidential basis. Any consideration given to introducing a CIPS for betting shops should be on the basis of evidence of the undermining of the Gambling Act objectives in a licensing authority area.



## 2.4. Assessing cumulative impact

The challenge with cumulative impact is demonstrating that any such problems are attributable to the *cumulative impact* of a number of betting premises. Impacts may occur from time to time in individual premises where any such problems may be dealt with by way of a review of the licence or targeted enforcement action. The threshold for establishing cumulative impact for gambling premises may be challenging (although not impossible), as any attempt will need to show an evidenced undermining of the Gambling Act licensing objectives as a result of a number or increasing number of a betting premises in a particular area. For example, whether the granting of another betting shop premises licence will result in children and other vulnerable persons being harmed or exploited by gambling.

## 2.5. What about planning tools?

Local authorities have planning powers to control the use of high street shops through the use class order. Betting shops have an A2 'use class'. Other activities included in the A2 user class order are banks, building societies, bureaux de change, professional estate agents and employment agencies. Changes between uses within the A2 use class do not require planning permission. In addition, the general permitted development order allows a change of use from restaurants and cafes (use class A3), drinking establishments (use class A4) and hot food takeaways (use class A5) to a use class in the A2 use class without requiring planning permission. In considering the use of planning powers to control betting shops, the local authorities powers are limited. A number of local authorities have explored and canvassed potential planning responses to control the number, and distribution, of betting shops on the high street.

To date, the government has agreed to keep the issue of use-classes and betting shops under review. As a current measure, the government recommends the use of an Article 4 Direction:

*“There is scope for local authorities to work with communities to consider whether to remove permitted development rights locally through the use of an Article 4 direction. The local planning authority is then able to consider a planning application for a change in use class in the context of national and local plan policies. In addition licensing arrangements, such as those for the operation of betting shops, which will have a role.”<sup>36</sup>*

Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 enables local planning authorities to restrict permitted development rights in its area or part of its area, or in respect of a particular development if the Secretary of State or the appropriate local planning authority is satisfied that it is expedient to do so. This can include restricting the permitted development rights to convert A5 (hot food takeaway), A4 (drinking establishment) and A3 (restaurant or cafe) uses into A2 (Financial and Professional service) uses. It should be noted that while an Article 4 Direction would require changes from A3, A4 and A5 use classes to an A2 use class to obtain planning permission, it would not affect changes within the A2 use class. A bank, or a building society or an estate agent could be converted into a betting shop without needing planning permission<sup>37</sup>. In imposing an Article 4 Direction, the local authority would need to apply to all uses within the A2 use class so a change of use to a building society for example would also require permission. An Article 4 Direction does not prevent the development from proceeding but instead requires that planning permission be first obtained from the local planning authority for that development. Any such planning application would then be determined against relevant policies contained in the Council's Local Plan. Local Authorities considering the Article 4 Direction as a possible solution should note a number of issues with this approach:

- Significant resource implications and consultation requirements for introducing an Article 4. Any fault in the consultation process may leave a local authority open to claims of damage and compensation from affected businesses.
- Article 4 Direction would not control changes within the same use class. So, for example, a betting shop could still open in premises once occupied by a bank after the Direction was given effect.
- Any attempt at removing permitted development rights to reduce the clustering of betting shops must be supported by a substantive body of local evidence which demonstrates the local need and the harmful effects of clustering.

The London Borough of Barking and Dagenham has launched a consultation on a draft supplementary planning document<sup>38</sup> (*Evening the odds: curbing the proliferation of betting offices in the borough*) where a number of suggestions including a 400 metre exclusion zone around existing betting premises to prevent new premises from clustering. The document says it is intended to explain the council's "overall guidance on addressing the social, economic and health impacts of

betting offices (use class A2) ensuring local communities have access to thriving high streets with a diverse range of services to meet their needs. It advises on the appropriate location and concentration of such premises". The local authority said the supplementary planning document would be introduced alongside an Article 4 direction to control betting shops within the borough meaning that planning permission would be required from 15 May 2014 to convert A3, A4 and A5 use classes into betting shops (A2 use class).

Besides the use of an Article 4 Direction, other proposed policy changes that may introduce greater planning controls for betting shops include reclassifying betting shops as 'sui generis'. In a debate in parliament on betting shops, David Lammy (Labour MP for Tottenham) raised concerns about the number of betting shops in his electorate. He proposed that betting shops were re-classified as 'sui generis' so that a planning application would be required to change use from any other establishment to a betting shop and the impacts of the proposed activity could be considered.

Recently, changes were introduced to further loosen and liberalise planning rules and regulations. A new permitted development that has come into the legislation will allow development consisting of a change of use of a building and any land within its curtilage:

- (a) To a flexible use falling within either class A1 (shops), class A2 (financial and professional services), class A3 (restaurants and cafes) or class B1 (business) of the schedule to the use classes order;
- (b) From a use falling within classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), class A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure) of that schedule, for a single continuous period of up to two years beginning on the date the building and any land within its curtilage begins to be used for one of the flexible uses.

In practice this means an operator wishing to open a betting shop in classes A1 (shop), class A3 (restaurant and cafes), or B1 (business), will not have to apply for planning permission and will be allowed to set up business in the building for up to two years. While not requiring planning permission, the operator is expected to notify the local authority. These new changes override any existing policies on specific use classes that a local authority may have in place.

## Chapter Three: Developing the cumulative impact policy

Local data collection, collation and analysis must underpin any consideration of whether to introduce a CIPS for betting shops. The first point is to collate and analyse all available data relating to the ‘crime and disorder’ and ‘children and vulnerable groups’ objectives of the Gambling Act.

### Crime and disorder

The relevant licensing objective in this instance is “*preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.*” The guidance to licensing authorities from the Gambling Commission makes specific reference to ‘organised crime’, stating<sup>39</sup>:

*“Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. In an application for a licence... is received in relation to premises that are in an area noted for particular problems with organised crime for example licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.”*

The guidance indicates that the Gambling Commission takes the issue of crime to be ‘severe’, which may imply more than just anti-social behaviour (unless extreme). The guidance refers to the imposition of conditions as opposed to outright refusal in such cases where there may be problems with organised crime. The key point here is that the guidance suggests that evidence of public nuisance and anti-social behaviour in and of itself is unlikely to demonstrate an undermining of the Gambling Act objective related to crime.

According to one legal expert, it would be difficult to describe the variety of circumstances or a pre-defined list of activities that may demonstrate the undermining of the objective relating to crime and disorder. The legal expert goes on to posit<sup>40</sup>:

*“... An authority aiming with the best will in the world to permit the use of premises as (yet another) betting office, may well find that police and residents’ complaints of intimidating street drinkers loitering outside the existing betting offices, disorder (fighting) amongst disgruntled punters, the vandalising of gaming machines - not to*

*mention the small matter of “a number of armed robberies” - swing the committee’s gun-sights irresistibly towards a perfectly legitimate refusal.”*

### **Fair and open**

The guidance notes that the ‘fair and open’ provision provided for in the Act is primarily a matter for the Gambling Commission as it relates to either the management of a gambling business and therefore subject to the operating licence, or it relates to the suitability and actions of an individual and therefore subject to the personal licence. The Commission notes that if licensing authorities suspect that gambling is not being conducted in a fair and open way, this should be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence<sup>41</sup>.

### **Protection of children and vulnerable persons**

The guidance makes it clear that the main focus is to prevent children from being allowed to gamble or enter adult-gambling premises, and shielding them from advertising that makes gambling products attractive to children. Where there are issues of children accessing betting premises, this is likely to be dealt with under enforcement proceedings taken against a specific betting outlet. The issue of vulnerable persons is different. The guidance states<sup>42</sup>:

*“The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define ‘vulnerable persons’, but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.”*

And:

*“Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations need to be balanced against the authority’s objective to aim to permit the use of premises for gambling.”*

It is perhaps here where there is most scope to test the case for cumulative impact policies. There is a lot of international research on the issue of access and availability of gambling opportunities and the negative impacts on individuals and

communities<sup>43</sup>.

However, there are a number of dimensions of accessibility (numbers of machines or gaming venues per adult in an area, spatial distribution, operator social responsibilities, hours of operation etc.), and the causal links between accessibility and negative impacts are complex. A key issue here will be the availability and presentation of local data to support the assertion that an increasing number of betting premises are leading to vulnerable persons being harmed or exploited by gambling.

### **3.1. What data is available?**

A range of data sourced from different agencies will be required to analyse the impact of betting shops. Police and local authorities will hold crime and disorder data. The local authority and a range of health and social care providers will hold data on vulnerable groups and children. Access to the data will need to be subject to appropriate information governance standards and data protection provisions. To inform the development of this resource, a data-mapping exercise was conducted to identify the availability of data at a borough-level. It should be noted that the data map is indicative only. Each local authority may have data unique to its own borough (e.g. resident surveys). Therefore, it is recommended that each licensing authority undertake a scoping exercise to examine the availability of local data and to identify any gaps in data that may necessitate specific primary data collection. A list of Gambling Act 2005 data to consider the impact of betting shops is summarised below.

For a full list of the data see Appendix B.

**Table 1: Gambling Act 2005 sources of information and data related to gambling and betting shops**

1. Local crime and disorder statistics on specific types of crime and crime hotspots.
  - Notifiable crimes and offences
  - Calls to police and police dispatches
  - Criminal intelligence
  - Anti-social behaviour
  
2. Health and social care data:
  - Problem gambling treatment services data: demographic information including resident borough, gambling activities, gambling venues, outcome data including problem gambling screen.
  - Areas of deprivation
  - Adults seeking treatment for mental health problems
  - Adults in alcohol and substance misuse treatment
  - Vulnerable adults including disabled adults
  - Children in need
  
3. Individual financial impact data:
  - Debt advice
  - Financial advice
  
4. Environmental health data:
  - Noise complaints
  - Litter complaints
  
5. Regulatory and compliance data:
  - Location of betting premises
  - Compliance monitoring information e.g. test purchasing, disturbances, anti-social behaviour and nuisance
  - Licence conditions and codes of practice returns e.g. responsible gambling practice data: information on self-exclusion, age verification and identification of people in trouble with gambling etc.
  - Gambling machines and technical standards return
  - Personal licence returns

### 3.2. Data limitations

All data has limitations. Local data on vulnerable groups and gambling-related harms (see Appendix C for a list of gambling-related harms) is very limited. Clinical and survey research suggest that there is a lag between the introduction of new gambling opportunities and the emergence of problem gambling in an area. There are a number of specific challenges in relation to data collection on vulnerable groups and gambling-related harms:

- Access and availability of problem gambling treatment services throughout Britain is limited – A 2008 Gambling Commission report suggested that less than around 0.5% of problem gamblers in Britain accessed specialist problem gambling treatment services<sup>44</sup>. Apart from the availability of services, other common reported barriers to problem gambling treatment include stigma, belief in ‘natural recovery’ and lack of confidence in the effectiveness of treatment.
- The harms associated with gambling are wide and people experiencing gambling problems may access other services to address these harms: e.g. debt and financial advice, mental health or primary care services for anxiety and depression.
- Problem gambling is often referred to as the ‘hidden’ addiction. The delivery of lower level interventions such as screening, brief interventions and sign posting tend not to be undertaken in health and social care services<sup>45</sup>.

More broadly, the quality of data and the extent to which the data specifically identifies betting premises or gambling will depend on the purpose for which the data is captured, the design of the data capture platform i.e. standards and specification, and the how the data is entered into the system. The direct effects of betting shops on vulnerable groups in particular are difficult to measure due to the limited quality of data on social and health impacts, the complexity of identifying and measuring social effects, and the difficulty of establishing a cause-effect relationship between a particular gambling activity and the social and health problems. Added to this is the complexity and challenge in measuring the link between identified impacts and new or additional betting shops - i.e. cumulative impact.



Where existing routine data is insufficient or not readily available, and the licensing authority continues to be concerned about problems relating to betting shops, it may necessitate some primary research or data collection. In order to understand the cumulative impact of betting shops, some form of longitudinal study and systematic data collection will need to occur over a period of time. Such studies may include a mix of approaches to develop and build the local evidence base. Studies or non-routine data collection may need to be repeated over a period of time to assess any cumulative impacts. Some suggestions on non-routine data collection include:

- Observational studies in and around betting shops assessing the extent of incidents that demonstrates an undermining of the Gambling Act objectives. For example, in 2012, the London Borough of Ealing commissioned an external organization to undertake an observational study into crime, disorder and nuisance linked to licensing betting offices. The local authority concluded that many of the incidents recorded in the study did not concern the gambling licensing objectives and were at most incidents of nuisance or misbehaviour and fell short of what could be described as crime and disorder<sup>46</sup>;
- Local prevalence studies that identify the occurrences of at-risk and problem gambling in relation to betting shops and FOBTs in the local authority area;
- Local research that explores the demographic sources of revenues from betting shops and in particular, identifying the proportion of revenue that comes from vulnerable groups (at-risk and problem gamblers) in a local authority area;
- Local problem gambling needs assessment including more systematic data collection and screening of problem gambling, brief interventions and sign posting in local health, social care and voluntary sector services.

### **3.3. Reviewing the evidence**

All of the evidence should be considered in its totality. A strong consideration is whether the evidence is sufficient and robust enough to demonstrate that gambling betting shops are a source of crime or disorder, associated with crime or disorder or being used to support crime' or 'children and other vulnerable persons... being harmed or exploited by gambling'. A key question guiding the analysis must be establishing that if such evidence exists, whether these problems are occurrences

relating to gambling in individual betting premises, or whether they are exacerbated or the result of the clustering of a number of betting premises in an area.

Note: Given the requirement to 'permit' gambling under the Gambling Act 2005, consideration should be given to the adoption of high quality research protocols when developing and designing any study, data collection, analysis and reporting to prevent or minimise any findings. For example, consideration should be given to appointing independent research (e.g. quantitative and qualitative methodologists) and subject matter expertise (problem gambling and/or other addictions) to comment on the research design and to provide independent peer-review of the internal findings. The licensing authority may also wish to seek legal advice in reviewing the findings to consider any legal criticisms of the findings.

## Chapter Four: Implementation of the Policy

As a CIPS for betting shops is yet to be implemented in Britain, a number of challenges are likely to emerge with any new policy. A sample CIPS for betting shops is provided in Appendix D.

It is important to ensure that there are robust mechanisms in place to measure and monitor the implementation and the effect of the CIPS. This section is concerned with ensuring appropriate governance and oversight during the CIPS implementation.

### 4.1. Effective communication of the CIPS

Targeted communications to affected parties e.g. betting shops, residents, and broader stakeholders about the intended impacts, reason for introduction, nature and scope of the CIPS is important. Lessons from the alcohol field suggest that poor communication during the development and implementation phases of the CIPS can lead to erroneous or conflicting views and differing expectations from stakeholder groups as to the intended impact of the CIPS. For example, a misunderstanding could arise that a CIPS provides a blanket cap on the expansion of the number of betting shops in an area. In developing the CIPS, consultation should be undertaken with ‘responsible authorities’ (section 157), ‘interested parties’ (section 158) and any other affected groups the licensing authority considers appropriate.

### 4.2. Multi-agency partnerships

To date, much of the policy leadership on the issue of betting shops within local authorities has come from the licensing authority and environmental health stakeholders. Implementing the CIPS requires broader engagement with other key stakeholder groups who have related interests in crime and disorder and the protection of children and the vulnerable. Partners should be identified locally but may include public health, mental health, adult and child social care, planning and external and other local voluntary sector agencies such as debt and financial advice agencies. While policy leadership for the CIPS may continue to reside with the licensing authority, it would seem appropriate to ensure robust engagement with the full range of stakeholders that work in the related areas. Apart from raising awareness around the particular issues associated with betting shops, these stakeholders may be able to assist with collecting or making available data that is relevant to monitoring the implementation, review and implementation of the CIPS.

### **4.3. Evaluation through good policy design and implementation**

Like any policy initiative, consideration should be given upfront to the evaluation design and for ensuring that regular data is collected to measure and monitor the intended (and unintended) effects or impacts of the policy. The evaluation design should be considered when developing the policy ensuring that there are clear objectives and supporting data to measure and monitor the policy impact(s). As mentioned earlier, where existing data is insufficient or not readily available, it may necessitate some primary research or data collection.

### **4.4. Data sharing**

As with the data analysis phase, a range of data will be required to measure and monitor the implementation of the CIPS. There will be a need for consistent and reliable data to be shared amongst stakeholder organisations. Consideration should be given to identifying an information or intelligence system that collates all relevant data (relevant information governance standards and data protection requirement notwithstanding). One major advantage of developing a shared information system is that it removes the over-reliance on relationships between individuals within organisations to share information required for partnership working.

### **4.5. Integrated local approach to addressing concerns about gambling**

While this document has focused on the cumulative impact of betting shops, a broader strategic approach should be taken to addressing concerns about gambling in a borough. This may include looking at the health and social care needs of residents in relation to at-risk and problem gambling and the types of lower level support that may be provided within local services; community-action types programmes to raise awareness of the harms associated with gambling; encouraging safe and socially responsible practice and proactive measures by betting shops; and broad healthier high street measures such as planning controls, safe and clean town centres. Where these initiatives are already in place for alcohol, it may be a case of expanding the scope to include gambling.

## Chapter Five: Recommendations and Next Steps

*Responding to the Cumulative Impact of Betting Shops – A practical discussion guide for London boroughs* sets out a case for Licensing authorities to consider CIPS in relation to betting shops where there is an *evidence-based* undermining of the licensing objectives of the Gambling Act 2005. A CIPS for betting shops has not been piloted or tested anywhere in Britain and this should be a priority focus.

### 5.1. Piloting and testing the CIPS for betting shops.

- Promoting the availability of this resource – *it is recommended that the LHIN develop a communications and dissemination plan to promote the availability of this resource across London boroughs.* Particular attention should be given to ensuring that elected members (those involved in the licensing authority and health and well-being boards) are made aware of the availability of this resource.
- Responding to the betting industry – the implications for the implementation of a CIPS for betting shops is significant given the proposed policy changes. Such a move to even consider introduction of a CIPS for betting shops is likely to attract attention, particularly from the betting industry. The introduction of a CIPS for betting shops will almost certainly be subject to judicial review. To this effect, licensing authorities should take legal advice throughout every stage – collecting evidence, analysing evidence, policy development and implementation. *It is recommended that licensing authorities wishing to pilot or implement the CIPS consider collaborating and partnering with other licensing authorities together to introduce the policy at the same time.* An approach where a number of licensing authorities introduce a similar-type CIPS for betting shops is likely to allow for a shared approach to risk and costs associated with doing so.
- Forming a working group of interested Pilot boroughs – *where London boroughs express an interest in piloting or testing the CIPS, it is recommended that a working group of officials be set up to support the sharing of knowledge and good-practice.* There may also be other benefits where boroughs may wish to pool resources and jointly

commission primary research and data collection required as part of the consideration of the policy.

## 5.2. Advocating for changes to planning and betting legislation and regulations to control betting shops and FOBTs.

- Strategic advocacy and partnership on shared concerns about the location of betting shops - it is clear that a number of London licensing authorities have concerns about betting shops, particularly around the planning framework and the use class of betting shops. The Mayors of Hackney and Newham have written to other London boroughs seeking support on proposals to change the existing planning and licensing systems with regard to controlling betting shops. *It is recommended that the elected members of London boroughs continue to advocate that betting shops be given their own use class for planning purposes.*
- Inclusion of CIPS in the guidance to licensing authorities – as was the case with alcohol and the Licensing Act 2003, cumulative impact policies were introduced into the associated guidance at a later stage. *It is recommended that London boroughs advocate for the inclusion of cumulative impact policies for betting shops in the Gambling Commission guidance to licensing authorities (issued under section 25 of the Gambling Act).*
- Minimising the harms associated with FOBT machines – the increased availability of FOBT machines over the last decade, high stakes and fast nature of the games indicate that FOBT machines are a particularly harmful form of gambling. *It is recommended that London boroughs agree a shared evidence-based policy position on reducing and minimising the harms associated with FOBTs. Consideration should be given to reducing the stakes, prizes, speed of play and numbers of FOBT machines in betting shops.*

## 5.3. Promoting gambling as a public health issue.

- Greater public health engagement in the licensing process – With the location of public health in local authorities, there are opportunities for public health as a function to make evidence-based representations to the licensing authority during applications for betting shops. Section 157 of

the Gambling Act defines ‘responsible authorities’<sup>47</sup>, and any such authority is notified of applications and is entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. Public health may become a ‘responsible authority’ if it is designated in writing by the licensing authority as competent to advise about the protection of children from harm (section 157(h)). *It is recommended that the Directors of Public Health seek written appointment from the relevant licensing authority(s) to be considered as a ‘responsible authority’ (section 157 of the Gambling Act) for the purposes of providing representations for betting shop premises applications.*

- Understanding local needs and commissioning interventions to prevent and minimise gambling-related harm – The links with at-risk and problem gambling, debt, mental health and alcohol drug problems are well known. However, problem gambling ‘needs assessment’ is not conducted at a local level. While there are specialist treatment services available in London, few local authority and NHS-funded services know how to identify signs of at-risk and problem gambling, and are aware of the specialist services to signpost. *It is recommended that Public Health Directors consider problem gambling in a rolling programme of needs assessment including establishing the local prevalence of at-risk and problem gambling.*
- Promoting the availability and uptake of basic problem gambling identification, brief intervention and sign-posting training to local services - The Royal College of General Practitioners has developed a training package on screen, brief advice and sign-posting for GPs - available online<sup>48</sup>. While providing much needed support, these interventions in key local services will also allow provide a platform for collecting local data on where residents are gambling, the products and the harms. *It is recommended that the LHIN consider how to best promote the availability and uptake of basic problem gambling identification, brief intervention and sign-posting training to local mental health, alcohol and drug and debt and financial advice services.*
- Using local authority owned property to support positive public health outcomes – As commercial property owners, local authorities may wish to

consider their opportunity to influence the location, access and availability of betting premises to encourage retail diversity, mix and positive public health outcomes. Such an approach may also be adopted for other commercial lease arrangements that have public health implications e.g. licensed premises, fast food shops etc. *It is recommended that local authorities give consideration to encouraging and supporting positive public health outcomes when leasing out local authority owned property for commercial purposes.*



## Appendix A: Legislative Context – Gambling Act 2005

The Gambling Act (2005) established a tripartite system of regulation involving the government, the Gambling Commission, and the licensing authority (the local authority). The regulatory framework identifies three types of licences: operating licence, personal licence, and premises licence.

<u>Licence Type</u>	<u>Issuer</u>	<u>Purpose</u>
Operating licence	Gambling Commission	That operators comply with principle gambling objectives
Personal licence	Gambling Commission	Certain senior individuals to require a licence with some operators
Premises licence	Licensing Authority	Applications considered where gambling premises are located

### The role of the Gambling Commission

The Gambling Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters. The Act sets out different types of operating licence that cover the full range of commercial gambling activities conducted in Great Britain. A gambling operator intending to open a gambling establishment in any locality will first need to obtain an operating licence. The Gambling Commission will assess prospective operators to ensure that it has appropriate governance procedures and is compliant with the overriding aims of the legislation. Successful applicants may then apply for a premises license from the licensing authority where it wishes to conduct its gambling activities.

Through the provision of information, guidance and support to licensing authorities, the Gambling Commission also ensures there is a consistent national standard of licensing. The Gambling Commission has extensive powers and may impose a range of restrictions on individual licensees. The Commission can enter premises, impose unlimited fines and ultimately withdraw licences. The Commission also has powers to investigate and prosecute illegal gambling.

## **The role of the Licensing Authority (Local Authority)**

Licensing authorities license gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in clubs and miners' welfare institutes. In England and Wales licensing authorities have these responsibilities; in Scotland they have been given to licensing boards. The Act also provides a system of temporary and occasional use notices. These authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling, for limited periods.

The Gambling Act (2005) requires each licensing authority to produce a Statement of Gambling Policy for its locality. This policy is underpinned by the three gambling principles and is intended to show how the licensing authority will exercise its functions and the principles it intends to apply. The licensing authority must demonstrate that it has consulted local stakeholders in the development of the local gambling policy.

Whilst all licensing authorities are required to produce a local gambling policy, there is in effect little local variation, as the content of such policies are tightly prescribed by the regulations issued with the Act.

## **Premises License**

The main role of the licensing authority is to consider applications for premises licenses from gambling operators intending to conduct gambling activities in the locality. The licensing authority is required to approve premises licences for all gambling activities in the locality including:

- Bingo
- Betting shops
- Adult gaming centres (high stakes electronic gaming)
- Family gaming centres (lower stakes electronic gaming)
- Casinos
- Racecourses and dog tracks.

In considering an application for a premises license, there are a number of licence conditions, which the local authority can consider; these are known as mandatory, default and discretionary conditions of the licence. The Gambling Act 2005 prescribes mandatory and default conditions; Mandatory conditions cannot be varied

by the licensing authority but default conditions can be altered or removed by the licensing authority.

The licensing authority does have limited powers to vary the conditions of the premises licence under the discretionary guidance. Such variations may include the opening hours or security arrangements for the proposed gambling establishment. Once again, the conditions that the licensing authority can set within individual licenses are tightly prescribed by the Gambling Commission and cannot contravene guidance issued through the regulator. In summary, the licensing authority can only set conditions for a premises licence where:

- They are relevant to make the building safe
- Are directly related to the premises
- Are fair and reasonable and relate to the scale of the premises
- Reasonable in all other aspects.

### **Aim to Permit**

It is of critical importance to note that the Gambling Act clearly specifies that the licensing authority shall aim to permit applications for a premises license so long as this conforms to relevant Codes of Practice, in accordance with any relevant guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and lastly in accordance with the policy statement published by the licensing authority. In this context, so long as the applicant can demonstrate that the license does not contravene the codes of practice and is reasonably consistent with the three gambling objectives (crime and disorder, fair and open gambling & protection of children and vulnerable adults) there is limited scope for the licensing authority to reject the application.

### **Enforcement of the Gambling Act**

Enforcement of the Gambling Act (2005) and associated regulations and licenses is shared between the Gambling Commission, the licensing authority and the police. The licensing authority is specifically expected to monitor and enforce the conditions of premises licences. To this end, inspections of gambling operators in the area are undertaken to ensure that they are compliant with the terms of their premises licences. The inspection may assess a range of factors including:

- Ensuring that there is no change to the specified floor plan

- Is compliant in terms of the number and location of gaming machines
- Ensuring that self exclusion forms barring problem gamblers are prominently displayed
- Contact information from agencies providing support for problem gamblers is also prominently displayed.

## **Appendix B: Gambling Act 2005 sources of information and data**

See related spreadsheets.

## Appendix C: Gambling Harms

Gambling-related harm refers to the negative impacts of gambling on the gambler, the family, wider social networks and community. Gambling-related harm stems from the negative effects of an individual's gambling (problem/problematic gambling). In particular, the excessive money and/or time and the resultant negative impact of the gambling on affected others, family, professional or other social networks, communities, and society. Harms may include<sup>49</sup>:

- Personal and psychological and mental health problems, such as difficulties in controlling expenditure, anxiety, depression, thoughts of suicide or attempted suicide, use of gambling as an escape from boredom, stress or depression; thinking about gambling for much of the time; and giving up formerly important social or recreational activities in order to gamble.
- Gambling behaviours, such as chasing losses, spending more time or money on gambling than intended and making repeated but failed attempts to stop gambling.
- Interpersonal problems, such as gambling-related arguments with family members, friends and work colleagues; relationship breakdown, divorce, or lack of time with the family.
- Job and study problems, such as poor work performance, lost time at work or studying, and resignation or employment termination due to gambling.
- Financial effects, such as large debts, unpaid borrowings, and financial hardship for the individual or family members (either in the present, in the case of high gambling commitments out of current earnings, or in the future, in the case of assets that are liquidated to finance gambling).
- Legal problems, such as misappropriation of money, passing bad cheques, gambling with the proceeds of crime and criminal behaviour due to gambling.

Family members including children and others will experience many of these harms. For more information on problem gambling including information on specialist problem gambling treatment services, please visit the Royal College of Psychiatrists website:

<http://www.rcpsych.ac.uk/expertadvice/problemsdisorders/problemgambling.aspx>

## Appendix D: Sample CIPS for betting shops

### 1. Legislative Framework

*[Insert name of licensing authority]* has a duty to comply with its obligations under obligations under Section 17 of the Crime and Disorder Act 1998, Gambling Act 2005, associated guidance and Licence Conditions and Codes of Practice. The objectives of the Gambling Act are:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
2. Ensuring that gambling is conducted in a fair and open way, and
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Consideration has been given to the guidance issued under Section 25 of the Gambling Act 25 and the Licence Conditions and Codes of Practice as these apply to betting shops.

### 2. Definition

For the purposes of the *[insert name of licensing authority]* statement of principles/gambling licensing policy, cumulative impact means:

*“The evidenced undermining of the Gambling Act 2005 licensing objectives where there are a number of licensed betting premises concentrated in one area.”*

Where the density of licensed premises are unusually high in an area, problems relating to gambling and crime and disorder occur can occur; and children or vulnerable people can be exploited by gambling. This is described as the cumulative impact of all premises taken together.

### 3. Policy objective

To reduce the evidenced undermining of the Gambling Act objectives as a result of the cumulative effects or ‘saturation’ of betting shops in *[list the areas]*.

### 4. Context



The licensing authority may receive relevant representations from either a 'responsible authority' or an 'interested party,' that the cumulative impact of new premises licences, material changes and variations to existing permissions is leading to an area becoming saturated with licensed premises, and this has or will undermine the Gambling Act objectives.

The issue of cumulative impact will be taken into account when considering the individual merits of an application. The onus is on the person or organisation making representations to prove any assertion by way of evidence, that the addition of the premises concerned and/or a variation to activities, hours or a change in nature of operation will undermine the promotion of the Gambling Act objectives.

*[The licensing authority may wish to provide further details such as controls on trading hours where appropriate].*

#### **5. Integrated policy to address cumulative impact and gambling related harm**

*[The licensing authority may wish to provide further details on related policy areas e.g. planning, or other strategies/partnerships e.g. crime reduction partnership it has to address cumulative impact and problems associated with betting shops].*

#### **6. Effect of the cumulative impact policy**

The effect of adopting a Cumulative Impact Policy is to create a rebuttable presumption that an application for betting premises licences in *[specify area(s)]* or material variations to such will normally be refused if relevant representations are received.

Applicants must address the cumulative impact policy and produce evidence to demonstrate how the application will:

1. Not add to cumulative impact, and challenges already being experienced in the area or
2. Undermine the Gambling Act objectives.

The applicant must produce evidence to rebut the presumption to refuse an application within a specifically defined area (or 'cumulative impact zone'). This policy takes effect where a relevant representation is received.

It must be stressed that the presumption to refuse an application does not relieve responsible authorities or 'interested parties' of the need to provide supporting evidence in conjunction with a relevant representation. This must be submitted before the licensing authority may lawfully consider giving effect to the cumulative impact policy.

**7. Which areas does the cumulative impact policy apply?**

*[The licensing authority should provide a map outlining where the cumulative impact zone(s) applies. The licensing authority should provide a detailed and sufficient explanation of the evidenced undermining of the Gambling Act objectives in the specific cumulative impact area/zone.]*

**8. Review of the cumulative impact policy**

*[The licensing authority should set a review timeframe for the cumulative impact policy or specific conditions that might prompt a review along with an overview of the steps involved e.g. public consultation etc. Evaluation considerations should also be mentioned here.]*

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## Notes:

<sup>1</sup> Section 22 of the Gambling Act 2005 requires the Gambling Commission to “aim to permit gambling” in so far as the Commission thinks it is reasonably consistent with the licensing objectives. The Gambling Act 2005 has allowed the expansion of gambling activities such as premises based betting shops (or ‘bookies’) but capped the number of casinos (small and large).

<sup>2</sup> The Commission does not regulate spread betting, which remains the responsibility of the Financial Services Authority; nor the National Lottery, which is regulated by the National Lottery Commission. However the National Lottery Commission has been co-located with the Gambling Commission since January 2012 and the Public Bodies Bill includes legislation to merge the two Commissions.

<sup>3</sup> Haringey Council, (2011). *Scrutiny Review of the Clustering of Betting Shops in Haringey*.  
[http://www.haringey.gov.uk/final\\_report\\_pdf-5.pdf](http://www.haringey.gov.uk/final_report_pdf-5.pdf)

<sup>4</sup> Ibid.

<sup>5</sup> <http://moderngov.southwark.gov.uk/documents/s37556/Officer%20Briefing%20Note.pdf>

<sup>6</sup> The process for establishing a CIPS under the Licensing Act 2003 is outlined in guidance published by the Home Office. The guidance can be found at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98101/guidance-section-182-licensing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf)

<sup>7</sup> Licensing authorities should note that interpretation of the Act is ultimately a matter for the Courts and that they should take their own legal advice on the application and interpretation of the Act.

<sup>8</sup> B1 machines – max stake £2 and max prize £4,000; B2 machines - max stake £100 and max prize £500; B3 machines - max stake £2 and max prize £500; B3A machines - max stake £1 and max prize £500; B4 machines max stake £1 and max prize £250. C machines - max stake £1 and max prize £70; D (non-money prize other than crane grab machines) machines - max stake 30p and max prize £8; D (non-money crane grab machine) machines – max stake £1 and max prize £50; D money prize machine – max stake 10p and max prize £5; D (combined money and non-money prize other than coin pusher or penny falls machines) machines – max stake 10p and max prize £8 (of which no more than £5 may be a money prize); and D (combined money and non-money prize coin pusher or penny falls machine) machines – 10p max stake and £15 (of which no more than £8 may be a money prize).

<sup>9</sup> Casinos are also entitled to make available category B2 machines.

<sup>10</sup> Wardle, H., Sproston, K., Orford, J., Erens, B., Griffiths, M., Constantine, R., et al. (2007). *British Gambling Prevalence Survey 2007*. London: National Centre for Social Research; Wardle H, Moody A, Spence S, Orford J, Volberg R, Jotangia D, et al. (2010). *British Gambling Prevalence Survey 2010*. London: National Centre for Social Research.

<sup>11</sup> Simpkin, K. Personal communication. 9 May 2013.

<sup>12</sup> Association of British Bookmakers. (2011).  
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomeds/421/421we13.htm> retrieved 4 June 2013.

<sup>13</sup> <http://map.geofutures.com/dispatches/> retrieved 1 June 2013.

<sup>14</sup> Whur, P. (2012). Local Government Lawyer – is there a better way?  
[http://www.localgovernmentlawyer.co.uk/index.php?option=com\\_content&view=article&id=10837%3Aa-better-way&catid=61&Itemid=29](http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=10837%3Aa-better-way&catid=61&Itemid=29) retrieved 22 May 2013.

<sup>15</sup> <http://www.guardian.co.uk/money/2012/apr/20/gambling-hell-betting-addiction-debt>  
<http://www.gamblingwatchuk.org/78-uk-news/93-fobt-machine-gambling-starts-to-get-the-publicity-it-deserves>

<sup>16</sup> <http://www.gamblingwatchuk.org/78-uk-news/106-government-fails-to-deal-with-fixed-odds-betting-terminals-on-high-street>

<sup>17</sup> Harman. (2011). The problem of Betting Shops Blighting High Streets and Communities in Low-Income Areas  
<http://www.harrietharman.org/uploads/95ee2a63-5cf5-4fd4-418f-a053c4043b9f.pdf> retrieved 29 May 2013.

<sup>18</sup> Association of British Bookmakers. (2011).  
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomeds/421/421we13.htm> retrieved 27 May 2013.

<sup>19</sup> Orford J, Wardle H & Griffiths M, 2013, What proportion of gambling is problem gambling? Estimates from the 2010 British Gambling Prevalence Survey, *International Gambling Studies*, 13(1), 4-18

<sup>20</sup> Orford, J. (2013). *People with gambling problems are making a massive contribution to gambling profits*.  
<http://www.gamblingwatchuk.org/research-new/95-people-with-gambling-problems-are-making-a-massive-contribution-to-gambling-profits> retrieved 7 May 2013.

<sup>21</sup> A team from the USA showed that, once a measure of total gambling engagement (the number of separate forms of gambling which a person had engaged in during the last 12 months) was allowed for statistically, B2 machine gambling was the only form of gambling which retained a statistically significant association with problem gambling (LaPlante et al, *European Journal of Public Health*, 2009).

<sup>22</sup> Harman. (2011). The problem of Betting Shops Blighting High Streets and Communities in Low-Income Areas  
<http://www.harrietharman.org/uploads/95ee2a63-5cf5-4fd4-418f-a053c4043b9f.pdf> retrieved 29 May 2013.

<sup>23</sup> Fong, T. (2005). The vulnerable faces of pathological gambling. In *Psychiatry (Edgmont)*, vol2(4): 34–42.

- Williams, R., Volberg, R. & Stevens, R. (2012). *The Population Prevalence of Problem Gambling: Methodological Influences, Standardized Rates, Jurisdictional Differences, and Worldwide Trends*. Report prepared for the Ontario Problem Gambling Research Centre and the Ontario Ministry of Health and Long Term Care. May 8, 2012.
- <sup>24</sup> Gamcare is a London-based charity providing problem gambling treatment and phone support for those affected by gambling.
- <sup>25</sup> Gamcare. (2012). *Moving in the right direction. Statistics 2011/2012*.  
[http://www.gamcare.org.uk/data/files/Statistics\\_2011-12\\_web\\_use\\_this.pdf](http://www.gamcare.org.uk/data/files/Statistics_2011-12_web_use_this.pdf) retrieved 4 June 2013.
- <sup>26</sup> The Responsible Gambling Strategy Board was set up in late 2008 to advise the Gambling Commission and, in turn, the Department for Culture, Media and Sport, on research, education and treatment programmes needed to support a national responsible gambling strategy and associated funding requirements.
- <sup>27</sup> Orford, J; Wardle, H; & Griffiths, M. (2013). What proportion of gambling is problem gambling? Estimates from the 2010 British Gambling Prevalence Survey. In *International Gambling Studies*, volume 13, issue 1.
- <sup>28</sup> For example the National Institute for Health and Clinical Excellence guidance Alcohol use disorders: Preventing the development of hazardous and harmful drinking (June 2010) and its underlying evidence review.
- <sup>29</sup> Alcohol Concern & Royal College of Psychiatrists (Wales). (2013). *A Losing Bet? Alcohol and Gambling: Investigating Parallels and Shared Solutions, a report by Alcohol Concern and the Royal College of Psychiatrists*.  
<http://www.alcoholconcern.org.uk/assets/files/Publications/Wales%20publications/A%20losing%20bet%20-%20final.pdf> retrieved 17 June 2013
- <sup>30</sup> The process for establishing a CIPS under the Licensing Act 2003 is outlined in guidance published by the Home Office. The guidance can be found at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98101/guidance-section-182-licensing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf)
- <sup>31</sup> Gambling Commission. (2012). *Guidance to licensing authorities 4<sup>th</sup> edition*. Birmingham: Gambling Commission.
- <sup>32</sup> Paragraphs 3.13 – 3.28.
- <sup>33</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98101/guidance-section-182-licensing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf)
- <sup>34</sup> Similar to guidance to licensing authorities issued under the Gambling Act 2005, and with regard to alcohol, licensing authorities must “have regard to” the guidance issued under the Licensing Act 2003.
- <sup>35</sup> Apart from terminology, the key difference is the prevention of public nuisance as a licensing objective under the Licensing Act 2003.
- <sup>36</sup> Department for Communities and Local Government. (2013). *New opportunities for sustainable development and growth through the reuse of existing buildings: Summary of responses*, 9 May 2013, p10
- <sup>37</sup> Southwark Council. (2013). *Briefing Note – Overview and Scrutiny Committee: May 7 2013. Health, vitality and viability of Elephant and Castle town centre: Business Mix on Walworth Road*.  
<http://modern.gov.southwark.gov.uk/documents/s37556/Officer%20Briefing%20Note.pdf> retrieved 1 June 2013
- <sup>38</sup> Barking and Dagenham Council. (2012). *Evening the odds: curbing the proliferation of betting offices in the borough – supplementary planning document*. London: Barking and Dagenham Council.
- <sup>39</sup> Paragraph 5.11
- <sup>40</sup> Gouriet, G. (2012). Local Government Lawyer – aiming at the target.  
[http://www.localgovernmentlawyer.co.uk/index.php?option=com\\_content&view=article&id=11070%3Aaiming-at-the-target&catid=61&Itemid=29](http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=11070%3Aaiming-at-the-target&catid=61&Itemid=29) retrieved 22 May 2013.
- <sup>41</sup> Paragraph 5.18
- <sup>42</sup> Paragraphs 5.2 & 5.3
- <sup>43</sup> For a summary of key issues relating to gambling accessibility, see ‘Appendix I 0 the link between gambling accessibility and harms.’ Productivity Commission. (2010). *Gambling. Report no. 50*. Canberra.
- <sup>44</sup> Gambling Commission. (2008). *A review of research, education and treatment. Final report and recommendations*. Birmingham: Gambling Commission  
<http://www.gamblingcommission.gov.uk/pdf/Review%20of%20research%20education%20and%20treatment%20-%20Oct%202008.pdf> retrieved 2 May 2013
- <sup>45</sup> British Medical Association. (2007). *Gambling Addiction and its Treatment within the NHS: A Guide for Healthcare Professionals*. London: British Medical Association.
- <sup>46</sup> Gilmore, P. (2012). *Results of a study into crime, disorder and nuisance linked to licensed betting offices. Report to Licensing Committee: 8 November 2012*.  
[http://www.ealing.gov.uk/download/meetings/id/1485/item\\_8\\_crime\\_and\\_disorder\\_and\\_betting\\_premises](http://www.ealing.gov.uk/download/meetings/id/1485/item_8_crime_and_disorder_and_betting_premises). retrieved 16 June 2013.
- <sup>47</sup> Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the licensing objectives.
- <sup>48</sup> <http://elearning.rcgp.org.uk/course/info.php?id=95>
- <sup>49</sup> Productivity Commission. (1999). *Australia’s gambling industries. Report No. 10*. Canberra: Ausinfo.