

Annex B: Partial Regulatory Impact Assessment

1. Title of Proposal

- 1.1 Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

2. Purpose and Intended Effect

(i) *The Objective*

- 2.1 Section 349 of the Gambling Act 2005 (the Act) gives the Secretary of State the power to make Regulations relating to the Licensing Policy Statement to be published by licensing authorities. The Regulations may prescribe:

- a) The form of statements;
- b) The procedure to be followed in relation to the preparation, review or revision of statements; and
- c) The publication of statements.

- 2.2 The objective of the proposal is *to provide transparency, and to some extent, consistency, for persons wishing to apply for a licence or permission under the Act, whilst minimising the imposition of unnecessary financial or administrative burdens on licensing authorities and the industry and enabling local circumstances to be reflected in licensing policy statements.*

- 2.3 It should be noted that these Regulations do not apply in Scotland, where Scottish Ministers may make separate Regulations regarding licensing policy statements.

(ii) *The Background*

- 2.4 The Gambling Act 2005 received Royal Assent on 7 April 2005. The Act gives new responsibility to licensing authorities to undertake a number of licensing and regulatory functions in relation to gambling premises. In all of their activities, authorities will be guided by the three licensing objectives set out in section 1 of the Act:

- To prevent gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and vulnerable persons from being harmed or exploited by gambling.

- 2.5 In order to assist authorities in undertaking these new responsibilities, and to provide transparency for those wishing to apply to an authority for a permission under the Act, section 349 requires all authorities to prepare and publish a licensing policy statement.

- 2.6 The licensing policy statement will last for a maximum of three-years, but can be reviewed and revised by the authority at any time. It must set out the principles the authority proposes to apply in exercising its functions under the Act during the

three-year period to which the policy applies. The statement must be produced following widespread consultation with those bodies and persons set out in subsection (3) of section 349. The Secretary of State, or Scottish Ministers in Scotland, has the power to make regulations about the form of statements, the procedure to be followed in relation to them and their publication. An order of the Secretary of State will determine the first day of the initial three-year period.

3. Consultation

3.1 In developing the proposal, the Government has consulted the Department's Premises Licensing Working Group and Transition and Training Group consisting of representatives from local government organisations, the Gambling Commission, the Magistrates' Association, the Scottish Executive, Business in Sport and Leisure and others¹.

4. Options

4.1 The Department considered a number of options regarding the Regulations in order to meet the objective set out in paragraph 2.2. These options were:

- Prescribing the exact form of the statements, including the methods for preparing, reviewing, revising and publishing the licensing policy statements;
- Doing nothing. This would mean licensing authorities would have complete discretion over the licensing policy statements;
- Imposing minimum statutory requirements on all licensing authorities (in England and Wales);
- Introduce the preferred option with amendments emerging from this consultation exercise.

Option 1 – Make comprehensive Regulations that stipulate the exact form and content, including the methods for preparing, reviewing, revising and publishing the licensing policy statements

4.2 Option 1 would involve prescribing the exact form of licensing policy statements, as well as the methods for preparing and publishing the statement and the circumstances in which an authority must review or revise statements. There would be little or no discretion for the licensing authority and therefore little or no ability for the authority to take local circumstances, particular to its area, into account when producing the statement. In particular, the licensing authority would only be able to address matters that were included on the form, and would not be able to publish material on additional matters that might assist applicants and individuals.

4.3 Paragraphs 3.5 to 3.9 of the consultation document set out the Department's consideration of this option. The costs and benefits of this option are set out in paragraphs 5.1, 5.7 and 5.8 of this document. There is also a table summarising the costs and benefits of all the options at Fig.1.

¹ The **Premises Licensing Working Group** consists of representatives from the following organisations: Local Government Association, LACORS, Institute of Licensing, Association of London Government, COSLA, Welsh LGA, Gambling Commission, Scottish Executive, Business in Sport and Leisure, Welsh Assembly, Magistrates' Association, Justices Clerks' Society, ODPM, Association of Chief Police Officers, Society Of Local Authority Chief Executives. The **Transition and Training Group** consists of representatives from: LGA, LACORS, IoL, ALG, COSLA, WLGA, Gambling Commission, Scottish Executive, BiSL, Magistrates' Association, ODPM.

4.4 The Department does not consider that the benefit to the gambling industry in adopting this option outweighs the burdens imposed on licensing authorities. Additionally, we feel that taking forward option 1 would be contrary to the Government's rationale for transferring responsibility for licensing gambling premises to licensing authorities.

Option 2: Do not make the Regulations, thereby giving full discretion to licensing authorities as to the form and content, including the methods for preparing, reviewing, revising and publishing, the licensing policy statements

4.5 This option would involve the Government taking no action in making Regulations. The effect of this would be complete discretion for licensing authorities to determine the form and content and the preparation, review and publication of the licensing policy statement.

4.6 Paragraphs 3.11 to 3.14 of the consultation document sets out the Department's consideration of this option. The costs and benefits of this option are set out in paragraphs 5.3, 5.8 and 5.10 of this document. There is also a table summarising the costs and benefits of all the options at Fig.1.

4.7 In considering this option, the Department concludes that any benefits to licensing authorities would fail to outweigh the significant burdens imposed on the gambling industry.

Option 3: Imposing minimum statutory requirements on all licensing authorities (in England and Wales)

4.8 Under option 3, minimum statutory requirements would be imposed on all licensing authorities in England and Wales. This is the Department's preferred approach and the Regulations attached at Annex A reflect this. However, we recognise that representations made as a result of this Consultation exercise may lead to further improvements to the Regulations and option 4 has been included to allow for additional changes.

4.9 Under this option it would become a legal requirement for licensing authorities to adhere to the requirements below when preparing, reviewing, revising and publishing the statement. In addition, licensing authorities would need to have regard to the relevant guidance issued by the Gambling Commission under section 25 of the Act. It is anticipated that the guidance will contain further instructions regarding the information to be contained in each section and/or the processes to follow.²

4.10 Paragraphs 4.5 to 4.7 of the Consultation Document set out in detail the content of the proposed Regulations. In summary, the Regulations as they are currently drafted require authorities to set out their approach and the principles to be applied in regard to the following in separate sections in all licensing policy statements:

- The designation of a body competent to advise the licensing authority about the protection of children from harm as a responsible authority;
- Interested parties;
- Information exchange; and

² Licensing authorities may depart from the Gambling Commission guidance if there is reason to do so, but should be prepared to justify their reasons.

- Inspection and prosecution.

4.11 Licensing policy statements must also contain an introductory section setting out the area over which the licensing authority will exercise its functions and a list of those persons/organisations consulted in producing the statement. Where a licensing policy statement is revised, it too must set out the persons consulted and, to the extent that it deals with the matters listed above, contain a separate section dealing with the authority's approach to those matters.

4.12 Before publishing a licensing statement or subsequent revision, the Regulations require authorities to:

- a) publish a notice of the intention to publish a statement or revision (this must be done no less than two weeks before the statement or revision is to be published);
- b) specify the date on which the statement or revision is to be published;
- c) specify the date on which the statement or revision will come into effect;
- d) specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected;
- e) publish the notice on the authority's website and in/on one or more of the following places:

- a local newspaper circulating in the area covered by the statement;
- A local newsletter, circular, or similar document circulating in the area covered by the statement;
- A public notice board on or near the principal office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

4.13 With regard to publication, the Regulations stipulate that the licensing policy statement or any subsequent revision must be published on the authority's website and be made available for inspection by members of the public in the principal office of the authority or a public library in the area covered by the statement. The statement or revision must be published at least one month before it takes effect. The Gambling Commission guidance is likely to contain further information about the circumstances that may give rise to authorities considering whether it is appropriate or necessary to review or revise the licensing policy statement.

4.14 The costs and benefits of this option are set out in paragraphs 5.4, 5.5 and 5.11 of this document. There is also a table summarising the costs and benefits of all the options at Fig.1.

4.15 The Department is satisfied that the objective set out in paragraph 2.2 of this paper, *to provide transparency, and to some extent, consistency, for persons wishing to apply to for a licence or permission under the Act, whilst minimising the imposition of unnecessary financial or administrative burdens on licensing authorities and the industry and enabling local circumstances to be reflected in licensing policy statements* will be met through the introduction of this option. However, the Department recognises that responses received as a result of this Consultation exercise may offer improvements to the Regulations that go further in meeting the objective.

Option 4: Introduce the preferred option with amendments emerging from the public consultation

4.16 This option would involve making the Regulations as set out under option 3 with amendments arising from the public consultation exercise. We have not therefore attempted to estimate the impact of this option as the eventual proposal could involve adding to the existing draft Regulations or reducing them.

5. Costs and Benefits

(i) *Sectors and Groups Affected*

5.1 The following will be affected by options 1 to 4:

- Licensing authorities in England and Wales (mostly local authorities);
- Existing operators in the gambling industry providing premises based gambling facilities, of which there are:
 - Approximately 1,000 Family Entertainment Centres³;
 - Approximately 1,000 arcades and gaming centres⁴;
 - Approximately 56,000 alcohol-licensed premises (making gaming machines available for use)⁵;
 - Approximately, 19,000 private clubs (providing gaming or making gaming machines available for use)⁶;
 - Approximately 678 commercial bingo clubs⁷;
 - Approximately 138 casinos⁸;
 - Approximately 8,800 betting offices⁹;
 - An unknown number of small society lotteries;
- An unknown number of persons who intend to offer premises based gambling under the provisions of the Act;
- A range of other responsible authorities which form part of local authorities, including Environmental Health Departments, Area Child Protection Committees and Social Services Departments;
- Those responsible authorities listed under section 157 of the Act¹⁰ and other authorities to be prescribed by the Secretary of State in Regulations made under that section; and
- Individual persons and bodies representing individual persons, such as resident's and tenant's associations.

(ii) *Benefits*

5.2 Option 1 is likely to benefit the gambling industry and individuals with an interest in licensing authority functions as it will provide a uniform approach to statements that will make them easier to read and to compare. There is also a likely benefit to licensing authorities with option 1: producing the licensing policy statements may take less time and/or less staff if there is no discretion in regard to their form and content.

³ Figure taken from BACTA's website

⁴ As above

⁵ Figure taken from Gambling Act RIA

⁶ As above

⁷ Figure from Report of the Gaming Board for Great Britain 2004-05

⁸ As above

⁹ Figure from ABB website

¹⁰ List of responsible authorities

- 5.3 Option 2 provides benefits to licensing authorities enabling them to determine their own approach to the form, content, preparation and publication of the licensing policy statements. Authorities would also be able to decide their approach to advertising the policy statement and any subsequent reviews or revisions to the statement. This would mean that authorities could determine the most cost effective methods for producing and advertising licensing policy statements.
- 5.4 Option 3. The proposed Regulations go no further than to ensure certain key matters are included in licensing policy statements. These are matters that authorities will need to give due consideration to before undertaking their new responsibilities under the Act, and as such are not expected to increase workload or impose unnecessary costs on authorities. The Regulations enable authorities to take local circumstances into account within a prescribed framework. In addition, the Regulations allow local discretion in the advertisement and publication of licensing policy statements. This means that authorities will be able to determine the most suitable and cost effective means of advertising and publishing licensing policy statements and any subsequent revisions.
- 5.5 Option 3 is also of benefit to the gambling industry. The prescribed framework proposed within the Regulations ensures that key matters are addressed in every statement. Additionally, since the Regulations enable authorities to select the most cost effective methods of advertising and publishing the licensing policy statements, it follows that fewer costs will then be passed on to the industry via premises licence fees.
- 5.6 Option 4. At this stage, it is impossible to quantify any benefits generated as a result of this consultation exercise.

(iii) *Costs*

- 5.7 Option 1 imposes a number of costs on both licensing authorities and businesses/individuals. Licensing authorities would not have the option of including extra information that they want or need to disseminate in the licensing policy statement (for example, they might wish to publish any principles they propose to apply in relation to the application for permits in the statement). This could result in them having to produce and publish a number of documents, when it would be cheaper and easier for them to produce just one.
- 5.8 Businesses and individuals might likewise have to access a number of different sources of information, rather than just one. The additional costs imposed on licensing authorities by this option would be passed on to businesses through the licence and permit fees.
- 5.9 Option 2 is likely to present significant costs to both licensing authorities and the gambling industry. For the industry, option 2 may result in large discrepancies between the form of the licensing policy statements. The effect of this is that more time will almost certainly be required to digest and compare the information contained in statements from different licensing authorities. In addition, it is likely also to result in statements being publicised in a range of different manners (if at all), and published in a number of different forms and places. This will necessarily add expense for businesses and individuals in the time taken to find out when and where statements will be published. It may also require further dialogue between the

industry and individual licensing authorities in order to obtain this information, which will increase the costs for both.

5.10 For licensing authorities, the lack of a prescribed form may well cause uncertainty in terms of what should be included in the licensing policy statement; the emphasis to be given to different functions; and the way that a statement should be publicised or published, since the licensing and regulation of gambling premises is a new responsibility. This may have time and cost implications, although it should be noted that the Gambling Commission guidance will contain some information about the licensing policy statement. In addition, authorities who do not produce comprehensive licensing policy statements in the first instance may need to review/revise the policy which has both time and cost implications.

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5.11 Option 3 presents minimal costs to licensing authorities. We do not foresee any additional costs for licensing authorities arising as a result of our prescribing the form of the licensing statement as the requirements are very basic and the matters to be included in separate sections would need to be addressed by the licensing authority somewhere in the statement in any event. The only potential additional costs are in terms of the advertisement and publication of licensing statements and reviews, but these costs will be passed on to the industry via premises licence fees. By providing authorities with a variety of options in terms of the advertisement and publication of the statements and reviews, however, it is not anticipated that the costs passed on will be significant. This option does result in costs to the industry since, whilst the Regulations set out the key matters to be included in every licensing policy statement, the form of the statement in relation to other matters will differ between authorities as a result of the local circumstances. This may require the industry and individuals to take more time to absorb the contents of different licensing statements than it would if the form were wholly prescribed.

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5.12 Option 4. At this stage, it is impossible to quantify any costs imposed as a result of this consultation exercise.

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5.13 A table summarising the costs and benefits attributed to each option is enclosed at Fig. 1 below.

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Fig 1. Summary of Costs and Benefits

Option	Benefits	Costs
1	<ul style="list-style-type: none"> ○ Benefit to the gambling industry: larger businesses with countrywide branches could expect the same information to be contained in the same form in every licensing policy statement, and every licensing policy statement to be advertised and published in the same way. This would make it easier to find essential information in different statements, and would save time in accessing any particular statement. ○ Benefit to licensing authorities: Policy statements may take less time and/or less staff to produce if there is no discretion as to their form. 	<ul style="list-style-type: none"> ○ Costs to licensing authorities: <ul style="list-style-type: none"> - unable to take local circumstances into account in giving greater emphasis to certain functions; - likely to increase financial burdens on authorities as they will be unable to include additional matters in the policy statement that they might otherwise have chosen to include; - unable to choose the cheapest and most efficient way of advertising and publishing the statement. ○ Costs to the gambling industry: <ul style="list-style-type: none"> ○ may have an adverse affect on certain businesses if authorities are unable to take particular local circumstances into account. ○ may need to consult a number of different sources for information rather than just one. ○ increased publication/ advertisement costs

ANNEX B: PARTIAL REGULATORY IMPACT ASSESSMENT

		would be passed onto industry via higher premises and permit licence fees.
2	<ul style="list-style-type: none"> ○ Benefit to licensing authorities: <ul style="list-style-type: none"> - authorities able to include whatever they deem appropriate in the policy statement, in whichever form they choose; - authorities able to determine how they advertise and publish the statement and any subsequent reviews/revisions; - authorities able to determine the most cost effective method for preparing, reviewing, revising and publishing policy statements. ○ Benefit to gambling industry – might benefit from all information that may be required to be disseminated from the authority being in one place. 	<ul style="list-style-type: none"> ○ Costs to the gambling industry: <ul style="list-style-type: none"> - discrepancies across England and Wales as to the information contained within, and form of, the statements; - larger businesses with countrywide branches may need to take more time on each statement to identify the location of relevant information within it and to compare with different policy statements; - some policy statements may not contain important information leading to further dialogue with authorities before an application is made. NB. this can also be regarded as a cost to licensing authorities; - authorities may not adequately advertise or publish licensing policy statements or subsequent reviews/revisions; ○ Costs to licensing authorities: without some prescribed form, authorities may be unclear about what to include in the licensing policy statement as the licensing and regulation of gambling is a new responsibility. This may have time and cost implications. - if authorities do not produce comprehensive policy statements in the first instance, this may result in a number of revisions/reviews which can be costly and time consuming.
3	<ul style="list-style-type: none"> ○ Benefits to licensing authorities: <ul style="list-style-type: none"> - Proposed Regulations go no further than to ensure certain key matters, that authorities will need to give due consideration to before undertaking their new responsibilities, are included in licensing policy statements; - Proposed Regulations enable authorities to determine the most suitable methods for advertising and publishing the licensing policy statements and any subsequent revisions subject to certain minimum requirements; and - Proposed Regulations enable licensing authorities to take local circumstances into account within a prescribed framework. ○ Benefits to the gambling industry: <ul style="list-style-type: none"> - Prescribed framework means that key matters are addressed in every licensing policy statement in a similar manner; - Knowledge of where and when licensing policy statements are likely to be publicised and published means less time and money spent in finding this information out. - Ability for authorities to determine most cost effective advertising and publication methods will mean less costs passed on to the industry via premises licence fees. 	<ul style="list-style-type: none"> ○ Costs to the gambling industry: <ul style="list-style-type: none"> - The form and content of licensing policy statements will differ between authorities (as licensing authorities may include additional information), which may mean increased work for the industry as part of the transition/future application process. - Any higher costs borne by licensing authorities in producing licensing policy statements will be reflected in increased premises licence fees to cover the costs. ○ Costs to licensing authorities: <ul style="list-style-type: none"> - Proposed Regulations may lead to higher costs through increased work for some authorities that had not intended to include all the key matters listed in paragraph 4.10.
4	Unable to estimate the impact of this option at this stage.	Unable to estimate the impact of this option at this stage.

6. Small Firms Impact Test

- 6.1 Trade organisations that have both large and small operators as members have been consulted on the proposals. The Small Business Service (SBS) has also been invited to participate in this consultation exercise. The Government's objectives, within the overall framework for effective regulation, are to minimise any disproportionate impact on small businesses. We do not consider that the approach proposed by the Department is contrary to this objective.

7. Competition Assessment

- 7.1 These Regulations are not expected to have a significant impact on competition.

8. Enforcement, Sanctions and Monitoring

- 8.1 The Act requires all licensing authorities to produce a three-year licensing policy statement by virtue of section 349. A failure to produce and publish this policy in accordance with these Regulations is a breach of statutory duty. As such, licensing authorities who either a) do not produce a statement, or b) do not produce a statement in accordance with the Regulations, will be subject to legal challenge.

DCMS
November 2005