



Quaker Action on Alcohol and Drugs

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RESPONSE TO THE GAMBLING COMMISSION CONSULTATION ON SPLIT PREMISES AND PRIMARY GAMBLING ACTIVITIES

We welcome the Gambling Commission's review of these matters.

QAAD contributed to the debate that preceded the Gambling Act 2005 because of our long-standing concern with problem gambling. The evidence in the field indicates that some forms of gambling are associated with higher rates of problems, and electronic gaming machines demonstrate a strong pattern of this nature (Fisher and Griffiths, 1995; Blaszczynski et al., 2005).

Rates of problem gambling are also influenced by availability and accessibility. It was because of these risks that the Gambling Act 2005 laid down limits for the numbers of machines to be permitted in different kinds of premises. We are concerned that these limits are being circumvented in various ways, and strongly support the Commission in clarifying the situation so that this does not continue to occur.

We note that Gambling Commission statistics report a large increase in adult EGMs over the past five years (approximately 34,000 in 2002-3 to 58,000 in 2007-8). We are unsure whether GC data gives a picture of how many of these may be in situations that depart from the intention of the Act, but hope that this assessment will be undertaken.

We have particular concerns about Fixed Odds Betting Terminals, which are relatively new machines but already account for 25.9% of the calls to Gamcare. We strongly support the Commission in addressing the issue of premises that offer these machines as a primary function, but without having the other betting facilities on which this entitlement should depend.

The siting of Fixed Odds Betting Terminals in betting shops is an example of a mixing of different kinds of gambling, and a subject that we believe should be actively researched by the Commission as part of its responsibility to advise government. The Prevalence Study of 2007 demonstrated that problem gamblers are often multiple gamblers. Whilst co-occurrence does not prove causation or the direction of it, this is a strong finding and one that is well attested in the literature from other jurisdictions. Situations like that in bingo halls, which allow an easy moving from lower risk to higher risk gambling, previously only existed in casinos. This is a new departure and it does have the potential to increase problem gambling. The impact needs to be assessed if policy and regulation is to be evidence-based.

We strongly welcome the Commission's draft proposals to ensure that premises are separate, self-contained, and provide the licensed activity as their primary purpose.

We note that density of gambling outlets is not a valid ground for a Licensing Authority to limit or refuse an individual application (except in the case of casinos if a 'no casino' resolution is passed). We hope the Commission will collate any concerns that Licensing Authorities may have about density/co-sited premises, and to promote research on this in terms of problem gambling.

Question 1: The Commission does not normally make representations on premises licences unless we have concerns about an operator's prior behaviour. What criteria should the Gambling Commission apply in determining whether to make a representation on a premises licence application or request a review of a specific premises?

We appreciate that the Commission is not resourced to monitor how Licensing Authorities use their powers, and that it is beyond its own remit to do so. However, we have concerns that Local Authorities have limited resources and are often averse to pursuing legal action, while this is not the case for many gambling operators. This may be obscuring the picture of what is happening locally and nationally.

We would suggest, therefore, that the Commission should undertake an audit of applications and invite Licensing Authorities to bring forward cases of uncertainty. We would support the Commission in making representations or applying for a review of a particular application - perhaps using the criteria of clarifying a principle, or taking a case that had common features with others known to the Commission. However, it seems cumbersome that legal action involving appeal would be needed to test the legislation and ascertain whether the Commission's view is 'correct'. For this reason we would support revisions to regulations, and through the legislative process if necessary.

Question 2: Depending on the exact circumstances and whether or not additional operating or premises licence conditions are introduced, should the Commission consider:

- a. Inviting licensing authorities to consider with operators how they can bring their premises into compliance, with a view to reviewing those that do not comply***
- b. Inviting licence authorities to review specific premises which do not comply with our interpretation of the Act and regulations and the Guidance or***
- c. Reviewing an individual operating licence (for failure to provide gambling facilities in accordance with statutory provisions) with a view to imposing specific conditions, or even, if the circumstances warrant, suspending or revoking the licence?***

We would support all of these options, starting at (a) and ascending order of action. Again, we would hope that the Commission would be centrally involved in evaluating the national picture across Licensing Authorities.

Question 3: Should the Commission's interpretation of the Act be made more explicit and bolstered by:

- a. Introducing operating licence conditions (generally, or individually) which ensure that the primary licensed activity is provided in each premises and/or***
- b. Asking DCMS and Scottish Ministers to introduce revised regulations on mandatory and default conditions on premises licences?***

We support both of these suggestions fully. We agree with the Commission's approach that the licensed activity must be the primary one taking place on the premises - and that this should demonstrably be the case. Governmental/legal regulations would be the most economical and authoritative way of achieving clarity and compliance.

Question 4: What factors do licensing authorities take into account in determining whether a plan represents a separate set of premises? What factors should they take into account?

We agree with the common-sense approach taken in the discussion document, and that the draft changes in Annexes A and B provide the right framework for the robust regulation that is needed. We think that all of the requirements should be met for an application to be successful. Separate premises should also mean that the premises are functionally independent, with no link or encouragement for customers to go from one to the other.

Premises should also involve only the area and the configuration agreed under the original licensing application.

Question 5: Is further clarification needed on what is meant by direct access and how might we do this?

Where access to separate premises does not involve going outside, we believe it would be particularly helpful for guidance notes to give the Licensing Authority a degree of common-sense discretion. However, an intervening area of public space that is used for purposes other than gambling would seem the simplest short-hand definition.

Question 6: Should the Commission recommend further Regulations in respect of mandatory and/or default licence conditions, how such principles could be formulated as regulations, and if so should they contain the following:

- ***Introduce a ban on direct access between bingo premises (bringing this type of premises into line with other premises entitled to have high value machines) and/or***
- ***Requiring barriers of a minimum specification (e.g. height, width, length and opaqueness) to delineate premises and/or***
- ***Requiring that no premises should be accessible only through another licensed premises and/or***
- ***Setting a minimum unlicensed area between licensed premises and/or***
- ***Requiring that a minimum number of player positions are made available in bingo and casino premises***

We support all of these recommendations and believe they should be mandatory licence conditions. To do otherwise would not address the confusion and departure from the intention of the Act that has already taken place and allow it to continue.

In general terms, we do not think barriers are sufficient to denote and designate separate premises. There should not be direct access between gambling premises.

Question 7: Do you agree with the Commission's interpretation of the requirements in the legislation and the need for the primary activity? If not, why not?

We thoroughly support this interpretation of 'primary activity', and believe it expresses the intention of the Gambling Act.

Question 8: Are the indicators of primary purpose appropriate; should others be added?

We support these indicators of 'primary purpose.' The proportion of profits from the activities and the general numbers of people playing (the latter being a factor that Licensing Authority inspection could assess) are also appropriate indicators.

Question 9: What criteria should the Commission apply if it were to attach additional operating licence conditions to prevent gaming machines being provided along or as the primary activity in a premises with a converted casino, bingo or betting premises licence?

We support the Commission's approach that electronic gaming machines should not be provided as the primary or principal activity. We agree with the criteria set out in Annexe B.

Question 10: What views do you have on the possible need for additional regulations?

We think the Commission should recommend the Regulations outlined in the discussion document to the Secretary of State. Adoption of these would help ensure a consistency of application in both the principle and practice of 'primary purpose.'