

licensing authority bulletin

May 2017

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News



Licensing authority annual returns: escalation letters to non-responders

Thank you to the vast majority of LAs who submitted their annual return covering the period 1 April 2016 – 31 March 2017 within the required deadline.

We have now started the escalation process with Heads of Service letters sent to around 30 LAs. Any further failures to submit will result in the matter being escalated to their CEOs, so please can you submit immediately.

It is a requirement under the Gambling Act 2005 that LAs submit annual information regarding licensed gambling activities, inspection and compliance work. The return is also part of the (DCLG) Single Data List of information which local authorities are required to provide to central government.

A report analysing the returns will be published later in the year and an accompanying Excel spreadsheet which enables you to compare your authority with others across Great Britain.

Please contact info@gamblingcommission.gov.uk if you have not received any correspondence about the annual returns.

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Gambling business fined £300,000 for misleading advertising

Since May 2015, *Licence conditions and codes of practice* (LCCP) require all licensed gambling operators to include in their advertisements any significant limitations relating to promotions, to avoid misleading consumers. We have worked closely with the Advertising Standards Authority to raise standards in this area.

Marking the first financial penalty imposed by the Commission for advertising failings, BGO Entertainment Ltd (BGO) has been fined £300,000 for misleading advertising on its own and its affiliates' websites. Affiliate marketing is a type of commission-based marketing in which a business rewards an affiliate for each visitor or customer brought by the affiliate's own marketing efforts

We first raised concerns with BGO about its advertising in July 2015. The investigation established that:

- BGO and its affiliates published misleading advertisements for promotions
- BGO did not take timely and effective action to address the misleading advertisements
- BGO provided inaccurate assurances that the issues had been fully addressed.

The *decision notice* sets out the findings and emphasises the importance of:

- understanding and applying the rules relating to advertising, as set out in the LCCP, the CAP/BCAP Codes and the Guidance on the rules for gambling advertisements
- taking responsibility for the actions of third parties such as affiliates, by making sure that marketing material they use is not misleading.



IOL week of action

We are once again supporting the Institute of Licensing's week of action (19 – 23 June) and are delighted that we already have a number of joint activities lined up around the country which we will be promoting, but would like to arrange some more. If your LA/local police are interested in undertaking some joint visits that week with your compliance manager to gambling premises or alcohol licensed premises with machines or having some training on topics including machines, poker in pubs and clubs, lotteries and test purchasing or if you are interested in undertaking some test purchasing then please contact your local compliance manager.

We are also working with the IOL on the second gaming machine e-learning module and hope to launch that during the week of action.

Case studies

Permit renewals in the South West

LAs are reminded the 10 year renewal process for club gaming permits, club machine permits and unlicensed family entertainment centres (uFEC) starts this year. We previously published a *special bulletin and supporting materials on the club permit renewal process* and similarly for the *uFEC renewal process* including a suggested application form and template reminder letter.

The importance of checking the appropriate application of uFEC permits was underlined during a number of recent joint site visits with councils in the South West to premises where permits were due for renewal in September 2017.

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There were a number of examples found where valid permits were in place but the circumstances that existed when the permits had been issued had changed considerably which meant that the gaming machines were not sited in areas 'wholly or mainly for making gaming machines available for use' (as stated at section 238 of the Gambling Act 2005). Examples seen included:

- A permit that had been issued to a building that had been demolished four years previously with the remaining machine moved to a pool room
- Gaming machines being sited in café areas or corridors
- Machines in licensed bars in excess of those permitted as an automatic entitlement (with no alcohol licensed premises gaming machine permits in place)
- 2 category D gaming machines located in the café area of a Vape store.

Applications for renewals must be accompanied by scaled plans and where there is any doubt site visits are encouraged before the permit is renewed. Your local compliance manager will be happy to assist with any queries.

LAs are encouraged to send case studies for inclusion in future bulletins. Please supply details to info@gamblingcommission.gov.uk



Advice and guidance

Participation fees for bingo played as equal chance gaming in pubs and other alcohol-licensed premises

Bingo is a class of equal chance gaming permitted on alcohol licensed premises under the allowance for exempt gaming in Part 12 of the Gambling Act 2005 (the Act).

Alcohol licensed premises are able to provide facilities for bingo, as long as restrictions in S281 of the Act are complied with:

- In any seven day period, the aggregate stakes or prizes for bingo must not exceed £2000, either in money taken or prizes awarded (if the limit is exceeded, the relevant operating and personal licences must be applied for).
- As part of the exempt gaming rules, a fee may not be levied for participation in the bingo - Section 344 (1) (b) Gambling Act 2005 states 'a charge for admission to premises where gambling takes place shall be treated as a participation fee'.
- The [Gambling Act 2005 \(Exempt Gaming in Alcohol Licensed Premises\) Regulations 2007](#) set the controls for this form of gaming to ensure it remains a low stakes and prizes activity.
- The bingo must comply with the [Code of Practice for equal chance gaming in club and premises with an alcohol licence](#) - this includes compliance with the maximum stakes of £5 per person per game.

A compulsory charge, such as charging for a meal, or for entry to the premises where bingo is being played, may constitute a participation fee, depending on the particular circumstances.

Any premises offering equal chance gaming alongside activities such as entertainment should make it clear in advertisements to customers that there is no payment to enter the venue in order to play bingo, and any payments made in respect of an event where bingo takes place must all be returned by way of prizes during the bingo itself.

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Machine suppliers and pubs

You will be aware that the relationship between pubs and breweries has changed in the last year. Since 26 May 2016 no new lease or tenancy agreement can tie a pub to the brewery's gambling machine supplier.

We have recently become aware of illegal machines being sited in pubs in the Kent/London area. One pub in particular was part of a larger pub chain. It may be the case that illegal or unscrupulous machine suppliers are attempting to exploit the ending of the pub tie arrangement.

We recommend that LAs remind their pubs of the legal requirement to obtain gaming machines from a licensed machine supplier, plus the maximum stake and prize on Cat C machines, and signpost them to our [gaming machines in pubs quick guide](#). Details of licensed machine suppliers can be found on the public [register of operators](#).



The advertising and promotion of the bingo or event where bingo takes place should make it clear that there is no requirement to make payment to enter the venue where the bingo is being held and the event that they claim people are paying for should be completely separate to the bingo being played. The venue must make it clear that the payment for the bingo only is entirely a stake, and that this stake is wholly returned in prizes. The venue cannot charge any sort of handling or admin fee for these tickets (which is common place for on-line ticket bookings organised by a third party) as this would not form part of the stake and so is likely to fall under the definition of a participation fee.

Where a charge for entertainment is an option, any payment for the bingo plus entertainment must be broken down into the stake for the bingo, then a charge to enter the separate entertainment.

Bingo places should not be restricted to favour those who have paid for an event, so if for example 600 people wish to play bingo only then they must be permitted to do so if this number is within the prescribed capacity for the venue – and not the artificial capacity that the venue has set for bingo only places.

LAs with concerns about alcohol licensed premises playing bingo with stakes and prizes exceeding the £2,000 weekly limit or where there is a possible fee to play, should contact their compliance manager in the first instance.

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Test purchasing

In previous editions of this bulletin we have provided case studies of age verification testing work carried out with our local authority partners. Part of the licensing objectives that guide our work is that children should be protected from being harmed or exploited by gambling. These test exercises provide a valuable way to help drive up standards.

Larger operators already carry out their own age testing to make sure their procedures are effective and send those results to us. In line with [our published approach to testing](#) we are particularly keen to hear from authorities that can help us test smaller betting and arcade operators that we often know less about.

We are also keen to test on-course bookmakers operating at racecourses. Results from previous tests with local authorities have been generally poor and we want to see standards improve with these. Please contact your local compliance manager if your authority can help us carry out one of these tests.

Finally, the following licensed betting operators have Primary Authority agreements that include National Inspection Plans: Ladbrokes (Milton Keynes), Coral (LB Newham) and Paddy Power (Reading). If you are interested in testing any of these premises, please contact the relevant Primary Authority first and let us know too.

Occasional Use Notices (OUNs)

In the [February edition](#) of the bulletin we provided guidance under the heading 'OUNs: beware of contrived sporting events'. We reminded licensing authorities that OUNs are designed to permit licensed betting operators to provide facilities at genuine sporting events, within the boundaries of the identified venue on a specific date (on no more than eight occasions in a calendar year). Traditionally OUNs are in use at point-to-point meetings, cricket grounds or golf courses hosting competitions.



We advised that OUNs cannot be used for a contrived sporting event at a premises (for example, at venues holding corporate events or in pubs/clubs) in order to apply for an OUN and to permit betting on premises where it would not normally be allowed – for example, so that a licensed bookmaker could accept bets on events such as the Cheltenham Festival.

We have become aware that a very small number of local sporting clubs have also utilised OUNs in a manner inconsistent with the intended use. The OUNs were served to facilitate betting taking place at the Cheltenham festival rather than events taking place at the venue subject to the OUN.

On being served with an OUN ask yourself this question – Is the primary purpose to facilitate betting at genuine sporting events, within the boundaries of the identified venue on a specific date? If yes, that's fine. If not, please give your local compliance manager a call to discuss an educational approach to the venue/person who served the OUN.

Alternatively, we can consider a more formal approach such as seeking to attach an additional licence condition on the operator's licence which would restrict the activity they can conduct under an OUN to the events taking place at the specified venue. [More information is available on our website.](#)

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Third party poker in clubs

We have become aware of several clubs with Club Gaming Permits that are using third party organisers to run the poker. LAs are reminded that in such circumstances, to be compliant with their club gaming permit, the third party is required to adhere to the [provisions of the code of practice for equal chance gaming in clubs and premises with an alcohol licence](#) including:

- ensuring that young people and children are protected by excluding them from gaming (even if they are permitted on the premises)
- ensuring that gaming is fair and open by requiring close supervision of the games, record keeping (as appropriate), the need for standard rules and the display of stakes and prizes limits and the rules during play.

Furthermore poker (and other games) may only be played by people who have been members of the club for at least 48 hours, or have applied or been nominated for membership or are genuine guests of a member.

LAs should seek reassurance that the clubs (and third parties) are aware of these requirements.



Information sharing



GamCare's national youth outreach programme

National problem gambling support charity GamCare officially launched their national Youth Outreach programme last month.

The charity's national programme has created three new 'youth hubs', with a fourth planned, where regional outreach workers will provide free of charge workshops for young people and training for frontline professionals in their local areas.

These hubs, in London, Birmingham, Bristol, Liverpool/Manchester and now expanding to Hull, will also provide materials and screening tools to assist local youth services and teachers in identifying young people at risk. Each youth hub will provide a structure for referrals to treatment for young people who are experiencing or vulnerable to gambling related harm.

[GamCare's Strategy for Young People](#) focusses on education, advice, treatment and communication to minimise gambling-related harm for young people.

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Gambling training modules for LAs

We have a number of refresher modules for licensing officers on topics which compliance managers can deliver at these at regional/IOL licensing meetings. Modules available are:

- Illegal betting in pubs
- Poker in pubs
- Small society lotteries
- Club gaming and club machine permits
- Test purchasing in England and Wales
- Gaming machines
- Betting at tracks
- Money laundering (for police/LAs)
- Police powers on conducting gambling premises inspections (in gambling premises and alcohol licensed premises in England and Wales)
- Permit renewals.

If you are interested in receiving such training, please contact your compliance manager.

The Commission and Institute of Licensing (IOL) have jointly launched an e-learning module on gaming machines.

This module is the first of 3 modules designed to help LAs and other co-regulators to improve their understanding of gaming machines and the local regulation of them.

This module provides an introduction to gaming machines and covers:

1. The role of LAs in the regulation of gambling
2. What is a gaming machine?
3. The various types of gaming machine.

These modules can be accessed by anybody via the [IOL website](#), and they are CPD accredited (based on a 30 minute average). Once on the website simply click on the 'e-learning' tab on the top right, then log in if you have an existing account, or request a log in to get started.

Please note, that the gaming machines sector is a diverse and complex one and this training is only designed to give a basic introduction, for help with complex issues seek specialist advice.

Reference materials

Primary Authority (PA) FAQs

A set of frequently asked questions are available on the PA register (log in then search of for a PA gambling partnership – listed below – and then go to the advice/information section). They explain the background to PA gambling agreements and the difference between PA advice and national inspection strategies. The FAQs set out how operators use third party age verification testing, how the tests are conducted and what having a PA relationship means. One question of particular interest to LAs is:

Q. What do local authorities need to do if they want to test purchase from betting shops covered by a NIS?

Each operator with a NIS has committed to a series of random tests by local authorities co-ordinated via the Primary Authority and without the knowledge of the operator, with no upper limit. Local authorities must contact the Primary Authority in order to participate in the NIS. The local authority must also commit in writing to following the protocol and providing feedback to the Primary Authority within the specified timeframes to participate. The PA will then discuss all the results with the operator and agree on steps to address any weaknesses.

The results ultimately assist in improving the protection for young people from gambling harm which is why the consistent approach is important and so conclusions can be reliably drawn. They are also intended to lend a reality check to the operator's Serve Legal testing to ensure they are providing a realistic picture of operator performance. The local authority tests use an actual under 18, rather than the 18/19 year olds used by Serve Legal, but again will 'mystery shop' against the Think 21 policies.

The results are also shared with the Gambling Commission and a report, including all the test purchases will be provided to the participating local authorities at the end of the NIS.

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Currently, the operators involved in a NIS are Coral, Ladbrokes and Paddy Power. See the [PA register for further details](#) of the NIS, and also other Primary Authority Advice only partnerships.

Please contact the PA directly if you wish to participate in the NIS testing.

List of Primary Authority gambling agreements

Gambling Primary Authorities (PA) agreements signed to date. LAs are reminded that there is **no restriction** on any LAs wishing to undertake proactive test purchasing activity where the PA has not developed a National Inspection Strategy.

Milton Keynes - Ladbrokes
(with National Inspection Strategy)
London Borough of Newham - Corals
(with National Inspection Strategy)
Reading - Paddy Power
(with National Inspection Strategy)
Reading - BACTA
Reading - ABB
Reading - Welcome Break
Reading - MOTO
Westminster - William Hill

LAs should check the [Primary Authority register](#) to see which trade association members have signed up to the BACTA and ABB agreements (you need to search for Reading or for the name of the operator itself).

Print friendly quick guides and templates

LAs are reminded that we have a number of quick guides. Some are designed to give to operators when undertaking visits, others provide an accessible how to for licensing staff. For print friendly versions: just click on the print friendly instruction on the front of each quick guide and make sure your printer is set to print on both sides of the paper:

- [Money laundering](#)
- [Gaming machines in pubs](#)
- [Race night, casino night or poker night](#)
- [Members' club or commercial club](#)
- [Poker in clubs](#)
- [Poker in pubs](#)

- [Facilitating betting in pubs and clubs is illegal](#)
- [Skills with prizes](#)
- [Illegal gaming machines](#)
- [Comparing lottery ticket dispensers and B3A machines](#)
- [Illegal siting of gaming machines](#)
- [Fairs and fairgrounds](#)
- [Running a lottery](#)
- [Running prize competitions and free draws](#)
- [Multi-activity sites](#)

Examples of [non-complex category D gaming machines](#) and information about how they should be correctly labelled as category D non-complex crane grab machines is also available in this section of the website.

In the [LA toolkits on our new website](#) you can find example letter templates are also available, which LAs may wish to use when dealing with issues such as illegal machines in pubs, and illegal poker or betting in pubs.

We also have compiled a [list of sample conditions that LA have attached to premises licences](#). These are provided for illustrative purposes only. They provide examples of sorts of conditions a licensing authority may wish to think about when addressing similar evidenced based concerns within a local area.

Licensing authority inspection outcome letters and inspection guidance

In 2013, we worked together with the Leicester, Leicestershire and Rutland Licensing Forum and the Leicester and Leicestershire Enterprise Partnership (LLEP) to create templates for assessments at gambling premises. The templates included reference to the social responsibility code provisions issued by the Commission under s153 of the Act. We also jointly created a suite of letters to assist LAs in communicating the assessment outcome to operators. These documents have just been updated to reflect the new social responsibility codes that came into force in May 2015. You can find the assessment templates at the [LLEP website](#).

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Gambling Act statutory notices and forms

LAs are advised that DCMS has asked the Commission to host all the [statutory notices and application forms](#) on the Commission's website as they are no longer available on the DCMS website.

Using the right forms

It is a statutory requirement that applicants use the correct forms to give proper notice of applications, variations etc to all responsible authorities, including the Commission (part 3, s12 and 13 of the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007).

LAs also have statutory duties to notify the Commission as well as the applicant and other responsible authorities of the grant/rejection of applications (new, variations, transfers etc) as well as the revocation, surrender or lapse of a premises licence using the correct statutory forms. Having all the statutory forms (both in English and in Welsh) in one place should help you to comply with those statutory processes.

Additionally we are aware that the gambling pages on many LA websites signpost applicants to the DCMS website for more information. As you will know the separate government departments now all use the www.gov.uk website and much of the historic gambling material is no longer available. LAs may wish to review and update their websites, signposting to the Commission's website where appropriate.

Premises licence register

LAs are reminded that the information on the publicly available [premises register](#) is based on the statutory notifications received from LAs regarding grants, variations, revocations, lapses etc, and is updated monthly. LAs are encouraged to use email to submit details of grants, transfers, notices, revocations, permits sending all necessary correspondence to info@gamblingcommission.gov.uk.

In relation to gaming machines, please only share notices of grant/rejection of Club Machines Permits and Gaming Machine Permits, as there is no requirement to advise us when an alcohol licence holder submits their notification for an automatic entitlement to two gaming machines. However LAs must keep a record of how many automatic entitlement notifications it receives each year, as that information is requested in the annual LA returns.

Find operating licence holders

Our [public register](#) contains the names of all companies and individuals who hold, or have applied for, operating licences in Great Britain along with the names of companies or individuals whose licences have lapsed, been revoked, forfeited, expired, suspended or surrendered in the last six months. LAs are reminded to check the operator licence quoted on premises applications with the register before granting a premises licence. An application for premises licence may only be made by persons who have an operating licence which allows them to carry out the proposed activity for example a bingo operating licence for a bingo premises, or have applied for an operating licence (although the premises licence cannot be determined until an operating licence has been issued).

Change of licensing personnel?

We try to ensure our contact records are up-to-date, but please help us out by letting us know when there are any changes of gambling contacts in your LA so that our communications reach the correct person.

Join our LinkedIn group

Our [licensing officers and LAs group](#) is aimed at helping licensing officers understand the key role LAs play in gambling regulation in Great Britain.

You can share good practice and find out how LAs have a number of regulatory functions including issuing premises licences, regulating gaming and gaming machines in clubs and pubs, inspection and enforcement of licences and lots more.

You can also follow [the LinkedIn Gambling Commission company page](#).