

APPENDIX 2

Southwark Statement of Gambling Licence Policy – 2009 Three Year revision				
Consultation Responses				
Name	Address	Section	Comment	Response
Paul Compton, Police Licensing Officer for Southwark Borough on behalf of the Borough Commissioner	Licensing Office, Walworth Police Station, 12/28 Manor Place, Walworth London, SE17 3BB	General	The policy appears to adequately reflect recent changes and is appropriate for implementation on Southwark	Comments noted.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	Queries the fact that public nuisance is not included within the stated licensing objectives, when there are a number of potential relevant issues including matters of sound containment; lighting; nuisance from customers; and litter.	The matter is noted and the concern recognised, however, the licensing objectives are established by section 1 of the Gambling Act 2005. These are stated as (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; (b) ensuring that gambling is conducted in a fair and open way; and (c) protecting children and other vulnerable people from being harmed or exploited by gambling.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	In view of the position as stated above, queries why environmental health are consulted.	Section 157 of the 2005 Act sets out the “responsible authorities” with regards to gambling premises licensing. The list of responsible authorities includes “an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area which the premises are wholly or partly situated”. Within Southwark this responsibility falls to the Environmental

				Protection Team. Responsible authorities are statutory consultees within the gambling premises licence application process. The Gambling Commission's guidance to licensing authorities (3 rd edition May 2009) notes at section 8.5 that "the Act contains a similar list of responsible authorities to that contained in the Licensing Act 2003, despite the lack of corresponding licensing objective of public safety (and nuisance) ... The result the Act aims to achieve through the inclusion of a wide range of responsible authorities is one where all relevant regulatory bodies and organisations are made aware of applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make are relevant to the licensing authority's determination".
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	General	Note that (the) consultation follows the model format circulated by LACORs and commend this as we believe that premises licence decisions should be administered consistently between local authorities.	Comment noted.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section three – Purpose and Scope of the Policy	The exercise of discretion – The exercise of a local authority's discretion is an essential part of regulation under the Act and the principles that are to be applied	Section 32 of part C of the draft policy statement includes full reference to section 153 of the Act, noting that "the licensing authority is aware that as per

<p>Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>			<p>are to be viewed against the duty of the licensing authority under section 153 which is to "aim to permit the use of premises for gambling".</p>	<p>section 153 of the Act, in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it (a) in accordance with any relevant code of practice issued by the Gambling Commission; (b) in accordance with any relevant guidance issued by the Gambling Commission; (c) reasonably consistent with the licensing objectives; and (d) in accordance with the authority's statement of licensing policy."</p>
<p>Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>	<p>Alders House 133 Aldersgate Street, London, EC1A 4JA</p>	<p>Section four – Administration, Exercise and Delegation of Function</p>	<p>Interested parties - It is noted that Gambling Commission Guidance states that "interested parties" includes trade associations and although BACTA is not itself an interested person under the terms of the Gambling Act 2005 it does represent, through it's members, parties who live sufficiently close to premises to be affected by activities being applied for.</p>	<p>This authority's approach to "interested parties" and "representations" is set out in part D of the draft policy statement. Section 45 notes that "interested parties" includes a person who (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities; (b) has business interests that might be affected by the authorised activities; or (c) represents persons who satisfy (a) or (b). Section 47 notes that the authority will determine each issue of whether a person is an interested party on it's own merits and that Gambling Commission Guidance states that "has business interests" should be given the widest possible interpretation. Section 52 notes that a representation would only be relevant if it relates to one or more of the licensing objectives, or raises issues under the policy</p>

				statement, the Commission's codes or guidance.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section four – Administration, Exercise and Delegation of Function	Reviews of licensed premises – Licensing authorities are given the power to initiate a review of a premises licence. Such reviews should only result from a breach of the licence or a threat to the licensing objectives. Therefore if licence has been granted and the premises operated in accordance with the licence there would be no grounds to review a licence if additional guidance or regulations are issued. A licence should not be subject to retrospective application of guidance.	Section 63 of part D of the draft policy statement recognises that the authority can “initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate”. Section 10.5 of the Gambling Commission Guidance which states that a formal review would normally be at the end of a process of ensuring compliance by the operator is acknowledged. On this basis it is accepted that a licence would not normally be subject to retrospective review if additional guidance or regulations are issued but this authority would not wish to restrict its ability to act in unforeseen circumstances.
Sally Slade, LBS Food Safety & Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Section four – Administration, Exercise and Delegation of Function	Raises the view that Trading Standards should be a responsible authority under the protection children from harm objective and should have enforcement powers. Also believes that the authority should be able to refuse applications on grounds of need.	The Act neither lists Trading Standards as one of the stated responsible authorities nor provides any enforcement powers to the service. This is one element where the Act differs from the 2003 Licensing Act. However, the good work established by the trading standards service in dealing with under-age sales generally has been recognised in preparation of this statement of policy and is reflected in the advice offered under prevention of under-age gambling. The trading standards service is also likely to be consulted in the event that

				enforcement activities around under-age gambling are considered.
John Emery, Safeguarding Adults Manager, Southwark Safeguarding Adults Partnership	160 Tooley Street, London, SE1	Section Six – Premises Licences	That the Partnership would wish to be recognised as the body competent to advise on issues concerning safeguarding vulnerable adults.	Noted in policy with arrangements made for the partnership to be notified of new and varied applications.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	Conditions must not duplicate protection which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be: <ul style="list-style-type: none"> • identification of which of the licensing objectives is threatened; • actual evidence of such threat; • reasons why the proposed condition would be effective to address such threat; and • reasons why such threat is not already addressed by existing regulation in the form of operating licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice. 	Section 112 of part E of the draft policy statement establishes that “this authority will seek to avoid any duplication with other statutory / regulatory systems where possible.” Section 144 notes that “any conditions attached to licences will be proportionate and will be (a) relevant to the need to make the proposed building suitable as a gambling facility; (b) directly related to the premises and the type of licence applied for; (c) fairly and reasonably related to the scale and type of premises; and (d) reasonable in all other respects.” Section 145 states that “decisions upon individual conditions will be made on a case by case basis.”
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	Protection of children and other vulnerable people / category D machines – BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young	Comments noted. No part of the draft policy statement seeks to impose restrictions to the way in which category D machines are offered to children beyond parliamentary intention or process.

<p>amusement industry with 650+ members)</p>			<p>people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.</p>	
<p>Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>	<p>Alders House 133 Aldersgate Street, London, EC1A 4JA</p>	<p>Section six – Premises Licences</p>	<p>Definition of premises and primary purpose - We note that the Gambling Commission has revised its guidance on the primary activity and the definition of premises. In deciding whether to grant a premises licence, the local authority should be concerned that the application meets the requirements of the regulations. The Gambling Commission will ask an operator how he/she will be providing the gambling before granting the operating licence, e.g. they will ask how the bets will be taken and settled before granting a betting licence. Therefore a licensing authority can be satisfied that a gambling operator is able to provide the main gambling type. Premises is defined by the Act as 'any place'. Historically the concept</p>	<p>This licensing authority notes the new guidance provided by the Gambling Commission on primary activity; the definition of premises and split premises. The authority will be mindful of the Guidance in considering and determining all applications for gambling premises licences. All applications will be considered upon their own merits with all relevant matters taken into account.</p>

			<p>of a premises within a premises has operated without evidence of any difficulty, examples of a premises within a premises include piers, motorway service stations, etc. DCMS lawyers confirmed during the passage of the Bill that this concept of a premises within a premises would continue under the 2005 Act, subject, of course, to any conditions applicable to individual licences. It should be noted that Parliament provided that certain premises would permit direct access from areas licensed for family admission to those which are restricted to adults only. Of course the adult only areas are subject to conditions regarding protection of the three licensing objectives and there are severe penalties set out in Parts 3 and 4 of the Act for breach. The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access should be adopted specifically in relation to licensing FECs and regional casinos. Should there be evidence in the future that the licensing objectives are not upheld, the Secretary of State has the power to react through due Parliamentary process. While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly observed. It is</p>	
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			clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent "drift". It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice	
Malcolm Ward, Quality Assurance and Safeguarding Manager	Southwark Children's Services & safeguarding Children Board, PO Box 64529, 4 th Floor, 160 Tooley Street, London, SE1 2TZ	Section ten – Contact Details	Change of contact details noted	Noted with amendment made.