

## **Briefing Note for Overview & Scrutiny Committee on Potential for Saturation Policies in respect of licensed betting shops**

### The Licensing Act 2003 & Saturation Policies

- The concept of 'saturation' or 'cumulative impact' policies originates from the licensing regime for alcohol, regulated entertainment and late night refreshment under the Licensing Act 2003;
- Saturation policies are not mentioned in the 2003 Act itself, but are referenced within the Guidance for local licensing authorities issued by the Home Office (initially Department for Culture Media and Sport). The Guidance cites saturation policies as a means of dealing with the cumulative impact on the promotion of the licensing objectives of a significant number of licensed premises operating in a defined area. The relevant licensing objectives here being the prevention of crime and disorder and the prevention of nuisance;
- Saturation policies have the effect of reversing the 'presumption to grant' embedded in the Act to a 'rebuttable presumption to refuse';
- While this does not enable the licensing authority to refuse every application without consideration, it does require each applicant to demonstrate to the licensing authority how he / she can ensure that the addition of their premises, if licensed, will not add to the identified impacts on the licensing objectives in the local area.
- Irrespective of this, under the rules of natural justice, licensing authorities must continue to consider each application on its own merits with all relevant matters taken into account;
- It should also be noted that saturation policies do not capture temporary event notifications (TENs) enabling one-off or irregular events to take place, even within saturation areas;
- Saturation policies must have an evidence base. That evidence base must be demonstrated and published as part of the public consultation process that precedes approval of a policy;
- This authority has three (alcohol licensing) saturation policies in place. The evidence for these has been obtained by way of the partnership analysis of alcohol related violence; crime and disorder; and ambulance pick-ups; plus information on nuisance calls made to the council. This analysis is reported to the council's licensing committee on an annual basis.

### The Gambling Act 2005 & Saturation Policies

- The Gambling Act 2005 provides the legal basis for the licensing regime for betting, gaming and lotteries;
- While the 2005 Act is based on the 2003 Act, neither the Act nor the Guidance for local licensing authorities (this time issued by the Gambling Commission) contain any mention of cumulative impact;

- This, plus the fact that the Act is a permissive Act (licensing authorities are directed to 'aim to permit' gambling) has led to the common view that saturation policies may not be enacted;
- However, this authority has recently obtained counsel opinion which suggests that this may not be the case. The opinion obtained takes the view that while the Act / Guidance may not make provision for saturation policies, the fact that they are not precluded by either, means that potentially such policy could be made. Opinion suggests that if saturation policies for betting shops were to be considered the process set out in the 2003 Act should be followed;
- If this view is to be accepted, then the practical problem in establishing saturation policies for betting shops comes in attempting to compile a reliable evidence base that properly demonstrates the cumulative impact of premises on the licensing objectives in the local area under consideration. The necessary data sets which might demonstrate the impact at a local level under this law are not readily available. The 2005 Act contains different licensing objectives to the 2003 Act. Here the most relevant objectives would be protecting children (and in particular) vulnerable people from being harmed or exploited by gambling and preventing gambling from ... being associated with crime and disorder;
- So, in summary, saturation policies may be possible, but further work needs to be carried out before any licensing authority might be in a position to propose a local policy. Much of this work is likely to revolve around local levels of gambling addiction and debt. Further work is underway, however, as follows:

London Health Improvement Network's (LHIN) Healthier High Streets Working Group

- The LHIN has established the Healthier High Streets Working Group to look into a range of issues including the proliferation on the high street of fast food outlets, betting shops and payday loan shops;
- The Group meets at Southwark's offices and has sought advice on the law around betting shops from Southwark's licensing team;
- Aware of the opinion obtained by this authority, the Working Group has commissioned a piece of work from The Outcomes Group looking into the potential for saturation policies to deal with betting shops. The intention is to research and prepare a framework for assessing local impact on the licensing objectives that can be picked up and used by any interested licensing authority. The work has only just commenced. A full report on the situation is anticipated in June 2013;
- The outcome of this work is awaited with interest by this authority and many others.

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