

**SHEFFIELD CITY COUNCIL
Committee Report**

Report of: Chief Licensing Officer, Head of Licensing

Date: Monday 5th October 2020 at 2pm

Subject: Sheffield Joint Test Purchasing Strategy under the
Gambling Act 2005

Author of Report: Shimla Finch

Summary: To note the implementation of a new joint multi-agency test
purchase strategy in gambling premises.

Background Papers: Not applicable

Category of Report: OPEN

Report of the Chief Licensing Officer, Head of Licensing to the Licensing Committee

Report No: 29/20

Sheffield Joint Test Purchase Strategy under the Gambling Act 2005

1.0 PURPOSE AND OBJECTIVES

- 1.1 The purpose of this report is to note the implementation of a new joint multi-agency test purchase strategy in gambling premises. The full strategy document is attached at Appendix 'A' of this report.
- 1.2 Our objectives are:
- to protect children and other vulnerable persons from being harmed or exploited by gambling (an objective under the Gambling Act 2005)
 - tackling issues regarding underage persons in licensed premises
 - to offer support and training to Licence Holders and staff that fail test purchases
 - to promote and improve partnerships with the licensed trade.

2.0 BACKGROUND

- 2.1 In 2018 the Gambling Commission worked in conjunction with Licensing Authorities across England to test the compliance of pubs with the requirement to prevent children from playing on 18+ machines. The [results published a failure rate of 89%](#) which was a cause of concern to the Gambling Commission and Local Authorities.
- 2.2. In response to these statistics that highlight that there is a risk of children and young persons gambling illegally in pubs, a multi-agency task group was formed which include representatives from the Gambling Commission, Sheffield Safeguarding Children's Board, South Yorkshire Police, Sheffield Trading Standards and the Licensing Authority to agree to run local test purchase operations. This is to ensure that the above objectives listed in paragraph 1.2 are met in a proactive manner.

3.0 THE LAW

- 3.1 Under section 46 of the Gambling Act 2005:

"A person commits an offence if he invites, causes or permits a child or young person to gamble"

- 3.2 Under section 47 of the Gambling Act 2005:

"A person commits an offence if he invites or permits a child or young person to enter premises"

- 3.3 Under the Act, a 'child' means an individual who is less than 16 years old, a 'young person' means an individual who is not a child but who is less than 18 years old.

- 3.4 To assist the trade, the Gambling Commission has published [Codes of Practice](#) which licence holders must adhere to; these codes set out good practice in relation to access to gambling by children and young people.

4.0 TEST PURCHASING

- 4.1 The aim of the Test Purchase Operation's is to address any issues that arise and to act as a training device to raise awareness across the industry in Sheffield; to work with trades and if necessary raise operational standards regarding the prevention of underage gambling. This is in line with the Gambling Commissions guidance.
- 4.2 Under this strategy test purchasing is carried out by South Yorkshire Police and Sheffield Trading Standards using South Yorkshire Police cadets and volunteers.
- 4.3 This multi-agency strategy will provide a clear framework of how premises that persistently fail test purchases will be dealt with. However each individual case will be dealt with on its own individual merits.
- 4.4 The strategy is to cover all gambling premises where there can be a prevention of underage gambling.
- 4.5 A letter has been sent out to all premises that have an authorisation under the Gambling Act 2005 that compliance assessments maybe carried out in their premises. This allows licence holders to review the effectiveness of any policies and procedures they may have. A copy of this letter is attached at Appendix 'B'.

5.0 PROPOSED GAMBLING TEST PURCHASE STRATEGY

- 5.1 On the first failure, we will advise the licence holder of this in writing and provide measures to assist in tackling underage gambling, examples of possible measures are provided on the strategy document. A safeguarding and [Gambling Awareness Session](#) will also be offered which is run by the Sheffield Safeguarding Children's Board.
- 5.2 If there is a second test purchase failure at the same premises, we would look at implementing a multi-agency action plan to address issues and place greater emphasis on the premises management taking positive action. We would also at this stage place a 'requirement' to attend the Safeguarding and Gambling awareness session.
- 5.3 If a third test purchase failure occurs within a 12 month period we would implement review proceedings before the Licensing Sub-Committee who could decide amongst other decisions to cancel the permit or impose conditions. Each case will be considered on its own individual merits and will be determined by the Licensing Committee.

6.0 FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications for the Council arising from this report.

7.0 RECOMMENDATIONS

- 7.1 That Members consider and note the strategy.

Steve Lonnia
Chief Licensing Officer, (Head of Licensing)
Licensing Service
Staniforth Road Depot
Sheffield, S9 3HD

APPENDIX 'A'

Sheffield Joint Gambling Test Purchase Strategy

OBJECTIVES

- To protect children and other vulnerable persons from being harmed or exploited by gambling
- Tackling issues regarding underage persons in licensed premises
- To offer support and training to Licence Holders and staff that fail test purchases
- To promote and improve partnerships with the licensed trade.

Multi Agency Task Group

Licensing Authority
Sheffield Children's Safeguarding Board
South Yorkshire Police
Trading Standards
Gambling Commission

Approach to Test Purchasing

Test purchasing is a means to measure the effectiveness of a licensee's efforts to control risks to the licensing objectives and to monitor the effectiveness of policies and procedures designed to prevent underage gambling.

Test purchasing will be carried out in accordance with the *Hampton Principles*, that regulatory outcomes can be achieved in a way that minimises burdens to businesses and reduces the risk of regulatory duplication.

Proportionate	Regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
Accountable	Regulators must be able to justify decisions, and be subject to public scrutiny;
Consistent	Rules and standards must be joined up and implemented fairly;
Transparent	Regulators should be open, and keep regulation simple and user friendly; and
Targeted	Regulation should be focused on the problem, and minimise side effects.

Any test purchase operation will be conducted in accordance with the *Better Regulation Delivery Office's (BRDO) Code of Practice on age Restricted Products*.

Section 64 of the Gambling Act 2005 (The Act) regulates the use of children in enforcement operations. It allows the Police, Gambling Commission, Local Authority Officers and authorised officers to use under 18s in enforcement operations.

Type of Authorisations to be covered under this Test Purchasing Strategy

All gambling authorisations issued under The Act where there can be a prevention of underage gambling.

Offences

Gambling Act 2005, Part 4, Protection of Children and Young Persons

- Section 46: A person commits an offence if he invites, causes or permits a child or young person to gamble.
- Section 47: A person commits an offence if he invites or permits a child or young person to enter premises.

Methodology

The test purchase operation consists of a young person attempting to enter a gambling premises and, if so able, attempting then to play a gaming machine for a short period of time before leaving the premises.

Each test purchase seeks to identify at what stage, if any, a challenge is made by the staff member at the gambling premises. The stages of challenge are as follows:

- Upon entry to the premises (betting, AGC and casino only – must be 18 years or over)
- Any time after crossing the premises threshold but before inserting monies into the gaming machine
- After having inserted stakes into the machine and whilst playing the machine
- Challenge between finishing gaming machine play and exiting the premises.
- No challenge (having departed premises).

Test Purchase Strategy Process

1st Failure

We will advise the licence holder of the failure in writing and provide measures to assist in tackling underage gambling. Example of measures to implement may include but are not limited to the following:

- **The Challenge 25 scheme:** All staff must be trained to operate this in relation to gambling, including managing confrontation, keeping a refusals log and knowledge of which types of identification are legitimate and acceptable.
- Staff training records must be maintained including the signature of trainees, details of the training delivered and dates, including refresher training.
- Signage to highlight the Challenge 25 scheme and to highlight the law in relation to children and gambling must be prominently displayed.
- **A safeguarding risk assessment** should be undertaken in relation to children and vulnerable adults and gambling and this should inform your operating policy and staff training. Assistance with the risk assessment process including a risk assessment tool is available from the Sheffield Children Safeguarding Partnership.
- Offer a **Safeguarding and Gambling Awareness Session**

2nd Failure

- Look at a multi-agency Action Plan to address issues
- Provide further training and advice
- Impose a requirement to attend the Safeguarding and Gambling awareness session
- Review any possible enforcement action

3rd Failure – within 12 months

Implement review proceedings before the Licensing Sub-Committee who could decide amongst other decisions to cancel the permit or impose conditions.

The Gambling Commission may consider taking formal regulatory action against the operator in addition to any action being taken by the Licensing Authority in relation to the premises licence.

Cancel Permits / Review Licences

Notification of up to two machines - Removal of entitlement by an order under s284.

The order can only be made if:

s.284 (2)

- (a) the application of the section is not reasonably consistent with pursuit of the licensing objectives,
- (b) gaming has taken place on the premises in purported reliance on the section but in breach of a condition of that section,
- (c) the premises are mainly used or to be used for gaming, or
- (d) an offence under this Act has been committed on the premises.

Before an order can be made, the Licensing Authority must give the applicant at least 21 days' notice of the intention of making the order. The applicant can then make any representations which the licensing authority must consider.

The authority must hold a hearing should the applicant request and comply with any procedural requirements.

If there is no appeal, the order will take effect 21 days after the notice of intention was given.

Licensed Premises Gaming Machines Permit – Cancel a permit

The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include:

- if the premises are used wholly or mainly by children or young persons or
- if an offence under the Act has been committed.

Before it cancels a permit the Licensing Authority must notify the holder, giving 21 days' notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.

Club machine permits / Club Gaming Permits – Cancel a permit

The Licensing Authority may cancel the permit if:

- the premises are used wholly by children and/or young persons
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

Before cancelling a permit, the Licensing Authority must give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make. The authority must hold a hearing if the permit holder so requests and must comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The authority must notify the permit holder, the Gambling Commission and the Police that the permit has been cancelled and the reasons for the cancellation.

Premises licences – Review

In relation to particular premises, the Licensing Authority may review the licence if:

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party

The Licensing Authority may impose additional conditions or revoke the licence.

Possible conditions to place on premises licences:

- Challenge 21 or Challenge 25 Policy
- Regular test purchasing to be undertaken to ensure the licensee monitors the effectiveness of their controls
- Use of magnetic locks to restrict access to premises
- Use of infra-red beam system to alert staff to the presence of customers in age-restricted areas
- Barriers to reduce the risk of children crossing from family entertainment centre premises into adult gaming centre premises
- Re-positioning category D gaming machines away from entrances to adult gaming centre premises, to reduce the attraction of children to these areas
- Induction and refresher training for staff
- Maintain a written log of all attempted access by persons under the age of 18 years of age
- Above log to be produced on request to an authorised officer of the Licensing Authority or Gambling Commission
- Each entry in the log to be kept for a minimum period of 18 months
- For a period of 12 months, the premises will undergo independent monthly test purchases (by a company or organisation approved by the Licensing authority) in relation to the Challenge 21 (or 25) policy
- Records shall be kept and maintained of the monthly test purchase operations and those records will be provided on request to an authorised officer of the Licensing Authority or the Gambling Commission
- Record of each monthly test purchase to be kept for a minimum period of 18 months

APPENDIX 'B'

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E-mail: licensing@sheffield.gov.uk



Date 10th March 2020

Name
Address Line 1
Address Line 2
Address Line 3
Address Line 4
Postcode

Dear Sir/Madam

Gambling Act 2005 - Compliance Assessments

I am writing to notify you of future compliance assessments that the Licensing Authority will be undertaking with partner agencies under the Gambling Act 2005 which may include your premises. These assessments may consist of enforcement checks, test purchasing, or both.

The main objectives of these assessments are to establish compliance with the three licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling

The aim is to achieve this by ensuring that the licensed activities provided are being carried out in accordance with:

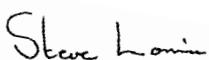
- The conditions attached to the Premises Licence
- The provisions of the Gambling Act 2005
- Relevant Codes of Practice (including gaming machines)
- Our Statement of Principles (policy) www.sheffield.gov.uk/gamblingpolicy

Further information and guidance regarding compliance can be found on the Gambling Commissions website: www.gamblingcommission.gov.uk.

Please ensure your premises have relevant policies and procedures in place to ensure compliance.

If you have any queries, questions or require advice, please do not hesitate to contact us.

Yours faithfully



Stephen Lonnie
**Chief Licensing Officer, Head of Licensing
Licensing Services
Sheffield City Council**