



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

JANUARY 2016

Comments are invited on this document to:

Licensing Team  
Community & Customer Services  
Watford Borough Council  
Town Hall  
Watford  
Hertfordshire  
WD17 3EX

Tel: 01923 278476  
Fax: 01923 278627  
Email: [licensing@watford.gov.uk](mailto:licensing@watford.gov.uk)

# STATEMENT OF PRINCIPLES

## Gambling Act 2005

(Published 23 November 2015)

### 1. Preface

1.1 Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from spread betting, gambling and betting (including the National Lottery) are regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

1.2 Watford Borough Council, along with other local licensing authorities, has a duty under the Act to license premises where gambling takes place, and to license certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

1.3 The Gambling Act requires that the following parties are consulted by licensing authorities:

One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:

The holders of premises licences issued under the Gambling Act 2005 in the Borough of Watford.

One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

1.4 A list of the persons we consulted is provided below:

- (a) Holders of premises licences, permits and gaming machine notices issued under the Act
- (b) Hertfordshire County Council (Trading Standards)
- (c) Residents of the Borough (residents' associations)
- (d) Watford and West Herts Chamber of Commerce
- (e) Watford & Three Rivers Trust

The council has also consulted with the responsible authorities.

1.5 Our consultation took place between 25 September 2015 and 6 November 2015, and we followed the guidance on Consultation principles issued by the Cabinet Office (last updated November 2013), which is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>.

## **PART A**

### **2. Introduction**

- 2.1 This Statement of Principles was adopted at a meeting of Watford Borough Council on 23 November 2015. It was placed on our website on 24 November 2015 and is effective from 6 January 2016. Copies have been placed in public libraries in the Borough as well as being available in the Town Hall.
- 2.2 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **Authorised activities**

- 2.3 'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:
- 'gaming' means playing a game of chance for a prize
  - 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
  - a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
- 2.4 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.
- 2.5 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the council's licensing team where appropriate.

### **Licensing Objectives**

- 2.6 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- 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 Gambling Commission states: "The

requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

### Statement of Principles

2.7 This Statement of Principles is intended to meet the council's obligations under section 349 of the Act. In carrying out its' functions in relation to premises licences and temporary use notices, the council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any Guidance issued by the Gambling Commission. All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, (published September 2015)
- reasonably consistent with the licensing objectives
- in accordance with this Statement of Principles.

### Types of Licences and Permissions

2.8 Under the Act, the Gambling Commission is responsible for issuing operating licences and personal licences. The council in its' capacity as a licensing authority will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- register small society lotteries below prescribed thresholds
- issue prize gaming permits

- receive and endorse temporary use notices
- receive occasional use notices
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

### The Gambling Commission

- 2.9 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.
- 2.10 The Commission has issued guidance under section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.
- 2.11 The Commission will also issue Codes of Practice under section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.
- 2.12 The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
BIRMINGHAM  
B2 4BP

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### **3. General Statement of Principles**

- 3.1 The council recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.
- 3.2 In carrying out its licensing functions the council will have regard to any guidance issued by the Gambling Commission from time to time.
- 3.3 The council will not seek to use the Act to resolve matters more readily dealt with under other legislation.
- 3.4 To ensure the licensing objectives are met the council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 3.5 Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm from gambling, especially where it receives representations to that effect.
- 3.6 Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 3.7 However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits. When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case. As with the Gambling Commission, the licensing authority will regulate gambling in the public interest.

#### **Preventing gambling from being a source of crime and disorder**

- 3.8 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 3.9 Anyone applying to the council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Therefore, the council will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the council will bring those concerns to the attention of the Commission.
- 3.10 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the council will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime.
- 3.11 There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once

people have left a building. The council does not intend to (and indeed, cannot) use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using other powers.

- 3.12 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance *and it can be shown that gambling is the source of that disorder*. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 3.13 When making decisions in this regard the council will give due weight to any comments made by the police.

#### Ensuring gambling is conducted in a fair and open way

- 3.14 The Gambling Commission does not generally expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.
- 3.15 Because betting track operators do not need an operating licence from the Commission the council may, in certain circumstances, require conditions on a licence relating to the suitability of the environment in which betting takes place.

#### Protecting children and other vulnerable people from gambling

- 3.16 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 3.17 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.
- 3.18 When considering whether to grant a premises licence or permit the council will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.
- 3.19 In seeking to protect vulnerable people the council will include people who gamble more than they want to, people who gamble beyond their means, and

people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

3.20 Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:

- betting shops cannot admit anyone under 18
- bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- Adult Entertainment Centres cannot admit those under 18
- Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
- clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

3.21 The council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.



#### **4. The Borough of Watford**

- 4.1 Watford Borough Council is situated in the county of Hertfordshire, which contains ten district councils in total. The council area has a population of approximately 95,500 (mid 2014 estimate), making it one of the smallest in the county in terms of population. However, in terms of population density, it is the most densely populated district council area in the county, and the seventh most densely populated district in England and Wales outside of London, reflecting the highly urban nature of the Borough.
- 4.2 Watford Borough was granted a Royal Charter in 1922. Traditionally a market town, it has developed into an attractive sub-regional shopping centre and important centre for cultural and recreational facilities. Watford has a catchment area population of approximately 500,000 within a travel time of 20 minutes from the town centre.
- 4.3 Situated in the South West of Hertfordshire, the borough has excellent transport links with mainline rail connections to London, Gatwick Airport, the Midlands and the North, Underground and Overground connections to London, its north-west suburbs and the rural Chilterns, community rail connections to St Albans, coach services to Heathrow airport, bus services to Luton airport, and convenient road connections via the M1, M25 and A41.

#### **Characteristics of the Borough**

- 4.4 Watford Borough covers an area of 2,142 hectares (8.3 sq. miles). The Office for National Statistics released mid-year estimates for 2014 in June 2015 which estimated that Watford's population was 95,500. In comparison to the national averages, Watford has a higher than average number of people of working age and of children, and a lower than average number of people of retirement age and over. It is a very diverse borough with residents from a wide range of ethnic backgrounds. The White British population makes up 62% of the town's residents, with the next largest ethnic groups identifying as being White (other), Pakistani, and Indian (Census 2011). The 2011 Census also reveals that 12,300 residents have their day-to-day activities limited by long-term health problems or disability, which is lower than average for the county and nationally.
- 4.5 Watford is a major town in the region. It is a sub-regional shopping destination, centered around the Intu Shopping Centre in the town centre, and the most vibrant night-time economy in Hertfordshire for which it has been awarded Purple Flag status since 2012. In recent years, Watford has successfully diversified into an attractive and popular regional shopping and business centre and offers a range of employment opportunities, but with a predominance of jobs coming from the service sector, including retail and restaurants, bars, pubs and clubs. Unemployment figures are below the national average and, currently, the town is nearly at full employment.
- 4.6 Whilst the town is prosperous, there are pockets of deprivation, and Watford is judged to have more households in deprivation than the national average. As part of the London commuter belt Watford is strongly influenced by London; and whilst this brings the benefits of a buoyant economy and opportunities for employment, it also brings significant other pressures such as high house prices and rents, and, with limited land available for development, pressure on all land, contributing to a high reliance on rented

properties. Such factors have a negative effect on the measures used to assess the level of deprivation in households, with people less likely to own their own home and more likely to live in shared or rented properties.

4.7 Several significant infrastructure projects are planned for the town over the next decade, including:

- the redevelopment of Charter Place as part of the upgrade of the Intu Shopping Centre
- the construction of the Metropolitan Line Extension (formerly known as the Croxley Rail Link) to join Watford Junction station to the London Underground network and the creation of two new stations in West Watford (Cassio Bridge and Watford Vicarage Road)
- the upgrade of Watford Junction station as a result of the increased transport offers, allowing for the development of new residential and commercial units
- the regeneration of the land around Watford Hospital to create a vibrant, new community offering new homes, employment opportunities, community facilities and open spaces and play areas
- the redevelopment of Watford Business Park and the surrounding area, including Ascot Road

4.8 As of 6 April 2016, it is a mandatory condition for holders of operating licences to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of principles.

4.9 We recognise that it is not a requirement for licensing authorities to complete a local area profile, but we have taken the view that we wish to work proactively and in co-operation with licensees when developing their own local risk assessments. We encourage operators to contact the licensing authority to consider and identify potential areas of mutual concern affecting their business in a way that aims to permit gambling without presenting risks to the licensing objectives, as required by the Gambling Act.

4.10 Potential applicants should also refer to the Local Plan (through our Development Management Team or on our website at [www.watford.gov.uk](http://www.watford.gov.uk)) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place. Applicants may also wish to view the Community Safety Partnership Plan and the Authority's Monitoring Report which is available from our website or from our offices.

4.11 Further information about the Borough is contained in the council's Corporate Plan, which is published annually and can be obtained from the council's offices or from our website.

4.12 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from 'time to time' and any amended parts re-consulted upon. The statement must be then re-published.

## **5. Responsible Authorities**

- 5.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- the Gambling Commission
- the Police
- the Fire Service
- a competent body to advise the authority about the protection of children from harm
- the local planning authority
- Environmental Health
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated (that is, the council itself and also any adjoining council where premises straddle the boundaries between the two).

- 5.2 Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the council will not generally take into account representations which are deemed to be irrelevant, such as:

- there are too many gambling premises in the locality (because need for gambling facilities cannot be taken into account)
- the premises are likely to be a fire risk (because public safety is not a licensing objective)
- the location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives)
- the premises will cause crowds to congregate in one area causing noise and nuisance (because other powers are generally available to deal with these issues. It should be noted that, unlike the Licensing Act 2003, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws).

Each representation will, however, be considered on its own individual merits.

### 5.3 Child protection

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

### 5.4 The contact details of all the responsible authorities under the Gambling Act 2005 are available via the council's website at [www.watford.gov.uk](http://www.watford.gov.uk).

## **6. Interested parties**

- 6.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorities activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

- 6.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.
- interested parties can include trade associations, and residents'/tenants' associations, providing that they can show they represent someone who would be classed as an interested party in their own right. Councillors and MPs may also be interested parties. Elected councillors may represent interested parties, providing they do not also sit on the Licensing sub-committee determining the application in question.
- In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the council may take account of:
  - the size of the premises
  - the nature of the premises
  - the nature of the authorised activities being proposed
  - the distance of the premises from the person making the representation
  - the characteristics of the complainant (including any special interests or knowledge relating to the application in question)
  - the potential impact of the premises

- 6.3 The licensing authority will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made objectively and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason. A report will be made to the licensing sub-committee

determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

- 6.4 A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, guidance issued by the Gambling Commission or this statement of licensing policy.
- 6.5 Interested parties should appreciate that moral objections to gambling, or the need for gambling premises, are not valid reasons to reject applications for premises licences.
- 6.6 Representations should ideally:
- be made in writing (preferably in duplicate, unless submitted electronically)
  - be in black ink on single sides of A4 paper
  - indicate the name and address of the person or organisation making the representation
  - indicate the premises to which the representation relates
  - indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this
  - clearly set out the reasons for making the representation, and which objective it refers to.

## **7. Exchange of Information**

- 7.1 Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 7.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 7.3 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.
- 7.4 Details of applications and representations which are referred to a Licensing sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the licensing authority is asked to do so.

## **8. Compliance and Enforcement**

- 8.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 8.2 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
- proportionate: it will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised
  - accountable: with decisions being justifiable, and be subject to public scrutiny
  - consistent: rules and standards will be joined up and implemented fairly
  - transparent and open: licence conditions will be kept simple and user friendly; and
  - targeted: regulation should be focused on the problem, and minimise side effects.
- 8.3 The licensing authority will avoid duplication with other regulatory regimes. Where matters come to light which are properly the role of other statutory agencies however, the licensing authority may bring those matters to the attention of those other agencies where appropriate.
- 8.4 The licensing authority notes the Commission's risk-based inspection programme, based on:
- the licensing objectives
  - relevant codes of practice issued by the Gambling Commission
  - guidance issued by the Gambling Commission, in particular at Part 36 of the Guidance to Local Authorities
  - the principles set out in this statement of licensing policy.
- 8.5 The licensing authority has an established working partnership with the Gambling Commission, and undertakes risk-based inspections and compliance visits.
- 8.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. Enforcement involves taking formal action where either those requirements are not met or illegal activities take place.
- 8.7 The Gambling Commission will be the enforcement body for operator and personal licences. It is also worth noting that concerns about manufacture,



supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

- 8.8 This authority will also keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
- 8.9 The authority's approach to the carrying out of premises licence reviews is set out in chapter 17.

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## **PART B PREMISES LICENCES**

### **9. Definition of premises licences**

- 9.1 Premises are defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and it will always be a question of fact in the circumstances. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 9.2 In considering applications for multiple licences for a building or those for a specific part of the building to be licensed, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.
- 9.3 This licensing authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).
- 9.4 The licensing authority takes particular note of the Commission’s guidance to be aware of the following:
- the third licensing objective seeks to protect children from being harmed by gambling, which means not only preventing them from being harmed by gambling and also from being in close proximity to gambling. Premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating
  - entrance to and exits from parts of buildings covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
  - customers should be able to participate in the activity named on the premises licence.
- 9.5 The licensing authority will take account of the following factors when considering whether premises are separate:
- do the premises have a separate registration for business rates?
  - is the premises neighbouring premises owned by the same person or by someone else?
  - can each of the premises be accessed from the street or a public passageway?

- can the premises only be accessed from any other gambling premises?
- 9.6 The location of the premises and the suitability of the division (including the nature of any partitions etc) will be a matter for discussion in each case between the applicant and the licensing authority's officers.
- 9.7 The licensing authority notes the Commission's guidance at paragraphs 7.19 – 7.23. Where more than one premises licence is permitted within a building the gaming machine entitlement for the separately licensed premises may not be aggregated and no more than the permitted number and category of machines for the relevant type of premises may be placed in any one of the individual sets of premises within the building. Section 152, when properly applied, means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises cannot, for example, be licensed as a bingo club on weekdays and a betting shop at weekends.

### Provisional Statements

- 9.8 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional licence stage; or
  - which is in the authority's opinion reflect a change in the operator's circumstances.
- 9.9 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:
- first whether the premises ought to be permitted to be used for gambling
  - second, whether appropriate conditions can be in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 9.10 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 – 7.65 of the Guidance to Licensing Authorities.

#### Location

- 9.11 The licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 9.12 Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome. Reference should also be made to the local area risk assessment prepared by the operator.

#### Duplication with other regulatory regimes

- 9.13 This authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 9.14 Under section 210 of the Act the licensing authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. The licensing authority will however consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Commission code of practice, or this statement of principles.

#### Licensing objectives

- 9.15 The grant of a Premises licences must be reasonably consistent with the licensing objectives.

#### Conditions

- 9.16 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility
  - directly related to the premises and the type of licence applied for

- fairly and reasonably related to the scale and type of premises: and
  - reasonable in all other respects.
- 9.17 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority may utilise should the authority consider it necessary for the promotion of the licensing objectives, such as the use of machine and door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas, staff training etc. There are specific comments made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.
- 9.18 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 9.19 It is noted that there are conditions which the licensing authority cannot attach to premises licences:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition
  - conditions relating to gaming machine categories, numbers, or method of operation
  - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
  - conditions in relation to stakes, fees, winning or prizes.

### Door Supervisors

- 9.20 The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 9.21 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

- 9.22 It is noted though that the Gambling Act 2005 has amended the Security Industry Act 2001 and that in-house door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority. However, the licensing authority strongly recommends that any door supervisors or security staff who are employed should be licensed by the SIA.

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## **10. Adult Gaming Centres**

10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances/ machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- staff training
- change machines
- advertising sources of help and other means of help for problem gamblers

This list is not mandatory or exhaustive, and is merely indicative of example measures.

10.2 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.

10.3 As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.

## **11. Licensed Family Entertainment Centres**

11.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances and/or machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- staff training

This list is not exhaustive.

11.2 Measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare will be considered in order to protect children and vulnerable persons.

11.3 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.



## **12. Casinos**

- 12.1 The licensing authority has passed a “no casino” resolution under section 166 of the Act on 23 November 2015, to be in effect from 5 December 2015, on the basis that the town has a thriving and diverse night-time economy, presently centred around The Parade and primarily characterised by alcohol and food-led premises. Strategies are in place to reinvigorate The Parade through our Cultural Plan to end the dominance of alcohol-led premises and re-develop Charter Place to incorporate a multi-screen cinema and restaurants.

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### **13. Bingo premises**

- 13.1 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.
- 13.2 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 13.3 Commercial bingo halls will require a bingo premises licence from the licensing authority.
- 13.4 Amusement arcades providing prize bingo will require a prize gaming permit from the council.
- 13.5 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type the council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 13.6 A limited number of gaming machines may also be made available at bingo licensed premises. Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:
- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
  - only adults are admitted to the area where these machines are located
  - access to the area where the machines are located is supervised
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
  - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 13.7 The licensing authority notes that the Gambling Commission's Guidance states:
- 18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo

premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

- 18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.
- 18.9 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.
- 18.10 Equipment operated by a bingo operating licence for the purpose of playing bingo, for example what are currently known as mechanised cash bingo, electronic bingo terminal (EBTs) and video bingo terminals (VBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Commission and, in the case of EBTs, do not hold gaming machine content.
- 18.11 An EBT that offers gaming machine content in addition to bingo content is considered to be a gaming machine and would count towards the total number of gaming machines or towards the offering of bingo. Any EBTs that do not offer gaming machine content would not count towards the number of gaming machines.
- 13.8 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 13.9 Operators' attention is also drawn to paragraph 18.24 – 18.26 concerning primary gambling activity.

#### Members' clubs and commercial clubs

- 13.10 Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a bingo operators licence and the corresponding personal and premises licences.

## **14. Betting premises**

- 14.1 Anyone wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be able to enter premises with a betting premises licence.
- 14.2 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.
- 14.3 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The Authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.
- 14.4 Betting premises will be able to provide a limited number of gaming machines and some betting machines.
- 14.5 The licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. We will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.
- 14.6 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 14.7 Each application will be considered on its own individual merits.

### Primary Gambling Activity

- 14.8 Operating licences issued by the Commission provides that gaming machines may be made available for use in licensed betting premises only at times where there are also sufficient facilities for betting available.
- 14.9 In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn the outcome and collect any winnings. Where betting facilities are

provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

- 14.10 The Licence Conditions and Codes of Practice (LCCP) sets out the full requirements on operators. To assist operators of betting premises the Commission has published a document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.
- 14.11 Should the licensing authority receive an application to vary a premises licence for bingo or betting in order to extend the opening hours, the authority will satisfy itself that the reason for the application is in line with the requirements on primary gambling activity. (i.e. the need for operating licence holders to ensure that there are still sufficient facilities available to participate in the gambling activity appropriate to the licence type ('the primary activity' or 'the principal activity') at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

## **15. Tracks**

- 15.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 15.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 15.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 15.4 When considering whether to exercise its power to restrict the number of betting machines at a track the licensing authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.
- 15.5 This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.
- 15.6 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 15.7 Appropriate licence conditions may be:
- proof of age schemes
  - CCTV
  - supervision of entrances/machine areas
  - physical separation of areas

- location of entry
- notices/signage
- specific opening hours
- the location of gaming machines

This list is not mandatory or exhaustive, and is merely indicative of example measures.

- 15.8 Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.
- 15.9 The licensing authority will expect applicants to be able to comply with any mandatory conditions imposed on their premises licence through regulations made by the Secretary of State. The licensing authority will expect applicants to be able to comply with any default conditions similarly imposed. Applicants seeking to remove or amend default conditions must demonstrate that there will be little or no risk to the licensing objectives or the licensing authority's statement of principles by removing the default conditions.
- 15.10 This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

#### Betting machines at tracks

- 15.11 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

#### Condition on rules being displayed

- 15.12 In line with guidance from the Gambling Commission the licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public, such as being could printed in the race-card or made available in leaflet form from the track office.

## **16. Travelling Fairs**

- 16.1 It will fall to the licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 16.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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## **17. Review of Premises Licences**

17.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities.

17.2 However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is

- relevant to the matters listed below
- frivolous
- vexatious
- will certainly not cause this authority to alter, revoke or suspend the licence or
- whether it is substantially the same as previous representations or requests for review
- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

17.3 Licensing authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. The licensing authority may review premises licences of its own volition. This may be on the grounds that a premises licence holder has not provided facilities for gambling at the premises. A referral to a Licensing sub-Committee of a set of premises for a review will be first approved by the Head of Community and Customer Services.

17.4 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

17.5 This can extend to a review of a class of licences where it considers particular issues have arisen. Reviews of a class of premises will be first agreed to by the Head of Community and Customer Services in consultation with the Chair of the Licensing (Licensing Act 2003) Committee.

17.6 The purpose of a review is to determine whether the licensing authority should take any action in relation to the licence. If action is justified the licensing authority may:

- add, remove or amend a licence condition (other than a mandatory condition)

- exclude or amend a default condition imposed by regulations
  - suspend the premises licence for a period not exceeding three months
  - revoke the premises licence.
- 17.7 In determining the appropriate course of action the licensing authority must have regard to the principles set out in section 153 of the Act as well as any relevant representations.
- 17.8 The Gambling Commission will be a responsible authority in premises licence reviews.

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**PART C**  
**Permits, Temporary and Occasional Use Notices**

**18. Unlicensed Family Entertainment Centre gaming machine permits**

- 18.1 Where a premises does not hold a premises licence but wishes to provide category D machines only gaming machines, it may apply to the licensing authority for this permit. It should be noted that under section 238 the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use. If they are also used for other purposes the application is likely to be refused.
- 18.2 The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. In preparing that statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act.
- 18.3 Accordingly this licensing authority will also have regard to the licensing objectives when considering applications relating to unlicensed FEC permits.
- 18.4 An FEC gaming machine permit cannot be granted unless the chief officer of police has been consulted, and no conditions may be imposed upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

Statement of principles

- 18.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include background checks on staff, training for staff in dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 18.6 Applicants will be expected to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
  - that staff are trained to have a full understanding of the maximum stakes and prizes; and
  - an awareness of local school holiday times and how to identify to the local education authority should truants be identified.
- 18.7 Compliance with any relevant industry Code of Practice for FECs issued by BACTA or other trade associations may be taken by the licensing authority as

evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above.

- 18.8 Applicants must submit with their application two copies of plans of the premises, to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.
- 18.9 The licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

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## **19. (Alcohol) Licensed premises gaming machine permits**

- 19.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.
- 19.2 Under section 284 the licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (ie, that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.
- 19.3 Should it be necessary to issue a section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests.
- 19.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "such matters as they think relevant."

### **Statement of principles**

- 19.5 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not use the adult-only gaming machines. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.
- 19.6 Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

- 19.7 A plan must accompany applications indicating where, and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.
- 19.8 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an adult entertainment centre premises licence.
- 19.9 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 19.10 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

#### Administrative matters

- 19.11 Notifications and applications for fewer than five machines shall be dealt with by the licensing authority's officers. Applications for five or more machines will be referred to a licensing sub-committee of councillors.

## **20. Prize Gaming Permits**

- 20.1 The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.
- 20.2 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.
- 20.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

Applicants should set out the types of gaming they are intending to offer and should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations
  - and that the gaming offered is within the law.
- 20.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.
- 20.5 Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

### Statement of principles

- 20.6 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to unequal chances prize gaming. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.
- 20.7 A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.

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## **21. Club Gaming and Club Machines Permits**

- 21.1 Members' clubs (but not commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.
- 21.2 The licensing authority notes paragraphs 25.44 – 25.49 of the Commission's Guidance as to matters to take into account when determining that a club meets the statutory qualifying requirements. These include the club's constitution; the frequency of gaming; and ensuring that there are more than 25 members. The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is in bridge and whist clubs covered by regulations made by the Secretary of State.
- 21.3 The Commission advises that licensing authorities may only refuse applications on the grounds that:
- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
  - the applicant's premises are used wholly or mainly by children and/or young persons
  - an offence under the Act or a breach of the permit has been committed by the applicant whilst providing gaming facilities
  - a permit held by the applicant has been cancelled in the previous ten years; or
  - an objection has been raised by the Commission or by the police.

### Club gaming permit

- 21.4 A club gaming permit allows the premises to provide
- up to three machines of categories B, C or D
  - equal chance gaming and
  - games of chance as set out in regulations.

### Club gaming machine permit

- 21.5 A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.
- 21.6 The licensing authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in sections 266 and 267 of the Act. Clubs which hold a club premises certificate under the Licensing Act 2003 are entitled to benefit from a fast-track application procedure.

## **22. Temporary Use Notices**

- 22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. There can, however, be more than one competition with a single winner held at the individual event covered by a specific temporary use notice. The facilities may not be provided in circumstances where any person participating in the gaming does so by means of a gaming machine. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities and at paragraph 14.10 of the Guidance. As with “premises”, the definition of a “set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises”, the licensing authority need to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance to Licensing Authorities.

## **23. Occasional Use Notices**

- 23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

## **24. Small Society Lotteries**

24.1 The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of an operator:

- submission of late returns (returns must be submitted within three months of the date that a lottery was drawn)
- submission of incomplete or incorrect forms
- breaches of the limits for small society lotteries.

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Should you have any comments as regards this document please send them via e-mail or letter to:

Austen Young  
Licensing Team  
Community & Customer Services  
Watford Borough Council  
Town Hall  
Watford  
Hertfordshire  
WD17 3EX

Email: [licensing@watford.gov.uk](mailto:licensing@watford.gov.uk)

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