

## DUDLEY METROPOLITAN BOROUGH GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

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All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities, Fifth Edition, published March 2015.

## Gambling Act 2005 Section 349(3) Consultation Revision of Statement of Principles

The Council is required to conduct a review of its statement of Principles in relation to the Gambling Act 2005 every three years and to consult with a wide number of agencies and operators as will be shown on the document presented to Full Council in February 2019.

### How We collect and use Information

We refer you to the following link in respect of the council policy  
<http://www.dudley.gov.uk/privacy-disclaimer-statement>

The consultees will be contacted as per lists currently held by the council. They will be invited to visit a webpage, or e mail, or post their views to the Licensing team.

Dudley council will use the information supplied, in the following ways.

A record will be kept of whom consulted

A record of the replies received, these will be used to reinforce or amend the policy.

The replies will be shared within the Licensing Authority and with elected members on the relevant committee.

The information will be retained for a period of three years, the timescale between consultation periods.

The information will not be shared with other third parties unless required by law.

## **PART A**

### **1. The Licensing Objectives**

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

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

This Licensing Authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks:

- 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

### **2. Introduction**

The Metropolitan Borough of Dudley is a conurbation situated on the western edge of the West Midlands and includes part of the Black Country industrial region. The Local Authority provides services to approximately 313,000 residents. The Council area is mainly urban.

The Licensing Section is situated within Environmental Services Place Directorate

Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose 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 republished.

Dudley Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these. The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;
- 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.

List of persons this Authority consulted:

Environmental Health  
Planning  
Trading Standards  
Safeguarding & Review Services  
West Midlands Police  
West Midlands Fire Service  
Office of Public Health  
Gambling Commission  
Customs & Excise  
Association of British Bookmakers  
The Bingo Association  
BACTA  
GamCare  
Citizens Advice Bureau  
Gambling Premises Licence Holders  
Club Premises Certificate Holders  
Small Society Lottery Holders

Our consultation will take place between September 2018 and October 2018.

The policy is for approval at a meeting of the Full Council in February 2019 and will be published via our website if approved in March 2019.

It should be noted that this statement of licensing principles 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.

### **3. Declaration**

In producing the final statement, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

Exercising their 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; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this Authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website.

## **5. Interested Parties**

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 application is made, the person:

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

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. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that “business interest” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested Parties can be persons who are democratically elected such as Councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be Interested Parties. Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Team.

## **6. Exchange of Information**

Licensing Authorities are required to include in their statements the principles to be applied by the Authority in exercising the functions under section 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

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. This Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on

this matter, as well as any relevant regulations issued by the Secretary of State under the powers in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

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.

This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and the 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 regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

As per the Gambling Commission's Guidance to Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

The Licensing Authority has adopted and implemented a risk-based inspection programme, based on;

- The Licensing Objectives
- Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

This Authority embraces the Department for Business Innovation and Skills "Regulators Code" which came into force on the 6 April 2014, and its standards have been integrated into our regulatory culture and processes. This Authority supports the principles of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to

Licensing Section  
Unit 1, Hurst Business Park  
Narrowboat Way  
Brierley Hill  
DY5 1UF  
Tel: 01384 815489.  
Email: [liquor.licensing@dudley.gov.uk](mailto:liquor.licensing@dudley.gov.uk).  
Website: [www.dudley.gov.uk](http://www.dudley.gov.uk)

## 8. Licensing Authority Functions

Licensing authorities are required under the Act to:

- 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 gambling 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) for the use of two or fewer gaming machines
- Issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- 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 (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions.

## 9. Local Risk Assessments

Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015, formalise the need for operators to consider local risks. The Gambling Commission's Social responsibility (SR) code requires licensees 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 (To come into force from the 6 April 2016). In undertaking their risk assessments, they must take into account relevant matters identified in the Licensing Authority's policy statement.

Licensees are required to undertake a local risk assessment when applying for a new premises licence. This risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement

- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

The new SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with Licensing Authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority.

Where concerns do exist, perhaps prompted by new or existing risks, this Licensing Authority may request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions is required.

Where a Licensing Authority's policy statement sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

### **Local Area Profile**

This Licensing Authority may in due course complete its own assessment of the local environment as a means of 'mapping out' local areas of concern, which can be reviewed and updated to reflect changes to the local landscape. These will be known as local area profiles. Completion of such a profile is not a requirement on a Licensing Authority. An assessment has been undertaken on the completion of such a profile and the necessary resource implication for the authority on completing and maintaining this. It has been currently deemed unnecessary given the low number of applications received, and other measures in place to assist applicants.

The authority assists potential applicants in the following ways

We strongly recommend that any potential operator contact the Licensing Authority at the earliest opportunity. The authority has, or can acquire the local requisite local knowledge specific to a particular application. This will enable the applicant to properly include the relevant factors into their risk assessment.

The Licensing authority has a proactive engagement with responsible authorities

These, include public health, West Midlands Police, Fire Service Environmental health and Trading Standards.

The authority engages with housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations, albeit on a less frequent basis.

An awareness of local risks can thus be identified and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The applications are shared with local elected members and experience from Licensing Act 2003 applications, has shown this to be a good way of identifying local factors. For example, an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school. The Licensing Authority might indicate, for example, that they would expect licensees to take



appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises. The licensee would be reasonably expected to have sufficient controls in place to mitigate associated risks in such areas and, if not, the Licensing Authority would consider other controls themselves.

To assist operators, this Licensing Authority has produced a local interactive map which can be found searching on the internet Dudley Council GISMO. This shows the location of the current licensed gaming premises. The operator can also use this to identify other premises such as nearby schools which may impact on delivery of the gaming objectives.

As stated, there is no mandatory requirement to have a local area profile, and this authority has an established working group, comprising the other relevant authorities

An operator can, and are therefore easily directed to the appropriate relevant authority to outline their proposals before submitting their operating schedule.

It enables the Licensing Authorities to better serve their local community, by better reflecting the community and the risks within it.

The authority can therefore provide:

- Greater clarity for operators as to the relevant factors in Licensing Authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application.
- It enables Licensing Authorities to make robust but fair decisions, based on a clear, identified factors and risks, which are therefore less susceptible to challenge.
- It encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

## **PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

### **1. General Principles**

Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### **(i) Decision-Making**

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- 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 (subject to the above); and
- In accordance with the authority's statement of licensing policy (subject to the above).

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for

premises licences” and also that unmet demand is not a criterion for a Licensing Authority.

## **(ii) Definition of ‘Premises’**

In the Act, ‘premises’ is defined as including ‘any place’. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure part, pier, track or shopping mall to obtain discrete premises licence, where appropriate safeguards are in place. However, Licensing Authorities should pay particular attention if there are issues about sub-division of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance to Licensing Authority that ‘In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But, that does not mean that premises cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.’

This Licensing Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which state that: Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore 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.
- Entrances to and exits from parts of a building 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.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or 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?

This Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

As the Guidance states with the exception of bingo clubs, tracks on race days and licensed family entertainment centres children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings.

The proper application of Section 152 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 could not, for example, be licensed as a bingo club on weekdays and a betting shop at weekends. The Gambling Commission's relevant access provisions for each premises type are reproduced below:

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

### **Betting Shops**

- Access must be from a street or from another premises with a betting premises license.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of the café: the whole area would have to be licensed

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

## **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision making.

### **(iii) Premises 'ready for gambling'**

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 put 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.

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.

### **(iv) Location**

This 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 are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated at an appropriate review. 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 potential concerns can be overcome.

### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states that in determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any matters not related to gambling and the

licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

In addition this Authority notes the following excerpt from the Guidance: When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

#### **(vi) Duplication with other regulatory regimes**

This Licensing Authority seeks 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 permission or building regulations approval, in its consideration of it. It 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.

When dealing with a premises licence application for finished buildings, this Authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**Licensing Objectives** – Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities:-

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels or organised crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction. Issues of simple nuisance are not relevant considerations under the Act.

**Ensuring that gambling is conducted in a fair and open way** – This Licensing Authority has noted that the Gambling Commission states that it generally does not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This Licensing Authority has noted the Gambling Commission’s Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission’s Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term ‘vulnerable persons’ it is noted that the Gambling Commission does not seek to offer a definition but states that ‘it will for regulatory purposes assume that this group includes 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 due to a mental impairment, alcohol or drugs.’ This Licensing Authority will consider this licensing objective on a case by case basis.

**Conditions** – 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

Decisions upon individual conditions will be made on a case by case basis, although there may be a number of measures this licensing authority will consider utilising should they be necessary to address an identified risk, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission’s Guidance.

This Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is 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 machines are located is supervised;
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the Licensing Authority cannot attach to premises licences which are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Conditions relating to gaming machine categories number, 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** – The Gambling Commission advises in its Guidance to Licensing Authorities that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

## **2. Adult Gaming Centres**

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, for example, ensure that under 18 year olds do not have access to the premises.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes

- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures, and operators must conduct local risk assessments.

### **3. (Licensed) Family Entertainment Centres:**

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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of area
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures, and operators must conduct their own risk assessments.

This Licensing Authority will, as per the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **4. Casinos**

This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement at an appropriate review with details of that resolution. Any such decision will be made by the Full Council.

### **5. Bingo Premises**

This Licensing Authority notices that the Gambling Commission's Guidance states that Licensing Authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their



licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

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. Operators must conduct their own risk assessments.

## **6. Betting Premises**

**Betting Machines** – This Licensing Authority will, as per the Gambling Commission’s Guidance, 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, when considering the number /nature /circumstances of betting machines an operator wants to offer. Operators must conduct their own risk assessments.

## **7. Travelling Fairs**

This Licensing Authority is responsible for deciding 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.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **8. Provisional Statements**

Developers may wish to apply to this Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case

of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow 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 statement stage;
- which in the Authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **10. Reviews**

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

- 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 (subject to the above); and
- In accordance with the Authority's statement of principles (subject to the above)

The request for the review will also be subject to the consideration by the Authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:-

- (a) add, remove or amend a licence condition imposed by the Licensing Authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) Suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

### **PART C Permits/Temporary & Occasional Use Notice 1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 paragraph 7)**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 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 and in preparing this 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. The Gambling Commission's Guidance to Licensing Authorities also states: "In its policy statement Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits ...., Licensing Authorities will want to give weight to child protection issues." Guidance also states "... An

application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application ... Licensing Authorities might wish to consider asking applications 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); and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

Statement of Principles – This Licensing Authority will expect the applicant 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 appropriate measure/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. (Alcohol) Licensed Premises Gaming Machine Permits – (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority.

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 (i.e. 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.

### **Permit: 3 or more machines**

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.”**

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 being harmed or 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 machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be a 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.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3. Prize Gaming Permits**

The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit”.

This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- That they understand the limits to stakes and prizes that are set out in Regulations;
- That the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

It should be noted that there are conditions in the Gambling Act 2005 with 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.

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

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance states that the Licensing Authority should take into account a number of matters (detailed within the guidance) when deciding whether it is a genuine members' club

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) 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;
- (b) the applicant's premises are used wholly or mainly by children and/or young person's;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the Police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states:

"Under the fast track procedure there is no opportunity for objections to be made by the Commission or the Police, and the ground upon which an Authority can refuse a permit are reduced." And "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **5. Temporary Use Notices**

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. The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state the restrictions on the type of gambling to be offered under a Temporary Use Notice, and they can 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 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 14 of the Gambling Commission Guidance to Licensing Authorities. 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 needs 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 a place that could be described as one set of premises.

### **6. Occasional Use Notices**

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. This Licensing Authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

### **7. Small Society Lottery**

The Licensing Authority is responsible for registering societies to run small society lotteries.

The Gambling Commission’s Guidance advises that Licensing Authorities should define ‘society’, as the society or any separate branch of such a society, on whose behalf a lottery is to be promoted, and need to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of a private gain 34.7 of the guidance