

18 November 2015

<b>Committee</b>	Licensing
<b>Date</b>	Thursday, 26 November 2015
<b>Time of Meeting</b>	2:30 pm
<b>Venue</b>	Committee Room 1

**ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND**



**for Sara J Freckleton  
Borough Solicitor**

<b>Agenda</b>
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**1. ANNOUNCEMENTS**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and advise of any substitutions.



Item	Page(s)
<b>3. DECLARATIONS OF INTEREST</b>	
<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
<b>4. MINUTES</b>	1 - 6
<p>To approve the Minutes of the Licensing Committee meeting held on 18 June 2015 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 23 July 2015 and 15 October 2015.</p>	
<b>5. REVISION OF STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005</b>	7 - 53
<p>To agree that a six week consultation be undertaken on the Gambling Act 2005: Statement of Principles 2016-2019 and that it be recommended to Council for adoption with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman of the Licensing Committee.</p>	
<b>6. SEPARATE BUSINESS</b>	
<p>The Chairman will move the adoption of the following resolution: That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
<b>7. SEPARATE MINUTES</b>	54 - 62
<p>To approve the separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 23 July 2015 and 15 October 2015.</p>	

**DATE OF NEXT MEETING**

**THURSDAY, 11 FEBRUARY 2016**

**COUNCILLORS CONSTITUTING COMMITTEE**

Councillors: Mrs K J Berry, Mrs G F Blackwell, G J Bocking, Mrs J E Day, A J Evans, R Furolo, R E Garnham (Chairman), Mrs P A Godwin, Mrs J Greening (Vice-Chairman), Mrs R M Hatton, Mrs A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

**Substitution Arrangements**

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

**Recording of Meetings**

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

## TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Thursday, 18 June 2015  
commencing at 2:30 pm**

**Present:**

Chairman  
Vice Chairman

Councillor R E Garnham  
Councillor Mrs J Greening

**and Councillors:**

Mrs K J Berry, Mrs G F Blackwell, G J Bocking, Mrs J E Day,  
R D East (Substitute for Mrs P A Godwin), A J Evans, R Furolo, Mrs R M Hatton,  
Mrs A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

**LIC.3 ANNOUNCEMENTS**

3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

**LIC.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

4.1 Apologies for absence were received from Councillor Mrs P A Godwin.  
Councillor R D East would be acting as a substitute for the meeting.

**LIC.5 DECLARATIONS OF INTEREST**

5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

5.2 There were no declarations made on this occasion.

**LIC.6 MINUTES**

6.1 The Minutes of the Licensing Committee meetings held on 5 March 2015 and 26 May 2015, and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 22 April 2015, copies of which had been circulated, were approved as correct records and signed by the Chairman.

**LIC.7 DEREGULATION ACT 2015 AND REVIEW OF TAXI AND PRIVATE HIRE POLICY**

7.1 Attention was drawn to the report of the Licensing Team Leader, circulated at Pages No. 10-72, which asked Members to agree to defer the redrafting of the Taxi and Private Hire Policy until further information and statutory guidance on the full implications of deregulation were available, and to approve the renewal of the existing taxi and private hire policies and conditions until such time a new policy was in place, but no later than 31 March 2016.

- 7.2 On 5 March 2015, the Licensing Committee had agreed to redraft a Taxi and Private Hire Licensing Policy following a comprehensive review of the existing policies. On 26 March 2015, the Deregulation Act 2015 received royal assent, followed by The Deregulation Act 2015 (Commencement No 1 and Transitional and Saving Provisions) Order 2015 which set out the commencement date for taxi and private hire deregulation measures. The provisions would be coming into force on 1 October 2015 and the main changes were highlighted in Paragraphs 2.2-2.5 of the report. This would be a major amendment to the 1976 Act affecting taxi and private hire drivers and operators and the deregulation would have far reaching implications for private hire operators in relation to the sub-contracting of bookings from one private hire vehicle operator to another. There was currently no detailed information or operational guidance on the deregulation measures available from the Government or other organisations, therefore, it was recommended to defer redrafting the Council's Taxi and Private Hire Policy until such time as further information was available. If Members were minded to agree to a deferral, it would be necessary to renew the existing taxi and private hire policies and conditions until such time a new policy was in place, but that should be no later than 31 March 2016.
- 7.3 A Member drew attention to Page No. 28 of Appendix B to the report which set out the existing Hackney Carriage and Private Hire Driver's Licensing Policy. She noted that the applicant's photograph for their licence must "show full face uncovered without sunglasses and, unless the applicant wears a head covering due to his/her religious beliefs, without a head covering" and she queried whether this was acceptable from a racial discrimination point of view. The Licensing Team Leader clarified that this was in line with the HM Passport Office and Driver and Vehicle Licensing Agency (DVLA) photograph requirements. The Chairman expressed the view that the redrafting of the Taxi and Private Hire Policy should not be delayed indefinitely and he asked that an update be brought to the next meeting of the Licensing Committee. It was subsequently proposed, seconded and

**RESOLVED**

1. To **DEFER** the redrafting of the Taxi and Private Hire Policy until further information and statutory guidance was available on the full implications of deregulation.
2. To **APPROVE** the renewal of the existing taxi and private hire policies and conditions until such time as a new policy was in place, but no later than 31 March 2016, with an update to be brought to the Licensing Committee meeting on 15 October 2015.

**LIC.8 REVIEW OF HACKNEY CARRIAGE TARIFF**

- 8.1 The report of the Licensing Team Leader, circulated at Pages No. 73-77, asked Members to conduct the annual review of the hackney carriage tariff. It was recommended that no amendment be made to the tariff.
- 8.2 Members were informed that Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allowed a District Council to fix and vary a table of fares for hackney carriages in the area. There were four hackney carriages in operation in Tewkesbury Borough. The current table of fares, attached at Appendix A to the report, had been agreed by all Hackney Carriage proprietors and set by the Licensing Committee in 2012. The tariff had been reviewed annually since that time but no changes had been made.

8.3 There had been no significant changes in the last 12 months which would affect the tariff. All licensed proprietors and drivers of hackney carriages in the Borough had been contacted in March 2015 inviting them to make suggestions regarding amending the current tariff. No responses had been received from the proprietors and this was taken to mean that they were happy with the current tariff in operation. There had been no increase in the fuel prices in the South West region since the tariff was last reviewed in July 2014 and the consumer price index, the Government's target measure of inflation, was at 0.01% in May 2015.

8.4 Having considered the information provided, it was

**RESOLVED** That no amendment be made to the hackney carriage tariff.

#### **LIC.9 SEPARATE BUSINESS**

9.1 On a proposal from the Chairman, it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

#### **LIC.10 SEPARATE MINUTES**

10.1 The separate Minutes of the meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 22 April 2015, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

The meeting closed at 2:45 pm

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 23 July 2015 commencing at 10:00 am**

**Present:**

Chairman

Councillor R E Garnham

**and Councillors:**

Mrs K J Berry and Mrs G F Blackwell

**LSB/B.1 ELECTION OF CHAIRMAN**

1.1 It was proposed, seconded and

**RESOLVED** That Councillor R E Garnham be appointed as Chairman for the meeting.

**LSB/B.2 ANNOUNCEMENTS**

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

**LSB/B.3 DECLARATIONS OF INTEREST**

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations made on this occasion.

**LSB/B.4 SEPARATE BUSINESS**

4.1 On a proposal from the Chairman, it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

**LSB/B.5 APPLICATION FOR GRANT OF A PRIVATE HIRE DRIVER'S LICENCE**

*(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)*

5.1 The Sub-Committee refused an application for a private hire driver's licence.

The meeting closed at 11:20 am

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 15 October 2015 commencing at 2:00 pm**

**Present:**

Chairman

Councillor R E Garnham

**and Councillors:**

Mrs J Greening and P N Workman

**LSB/B.6 ELECTION OF CHAIRMAN**

6.1 It was proposed, seconded and

**RESOLVED** That Councillor R E Garnham be appointed as Chairman for the meeting.

**LSB/B.7 ANNOUNCEMENTS**

7.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

**LSB/B.8 DECLARATIONS OF INTEREST**

8.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

8.2 There were no declarations made on this occasion.

**LSB/B.9 SEPARATE BUSINESS**

9.1 On a proposal from the Chairman, it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

**LSB/B.10 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE**

*(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)*

10.1 The Sub-Committee granted an application for a private hire driver's licence.



**LSB/B.11 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE**

*(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)*

- 11.1 The Sub-Committee noted that the application for a private hire driver's licence had been withdrawn.

The meeting closed at 2:50 pm

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Committee
<b>Date of Meeting:</b>	26 November 2015
<b>Subject:</b>	Revision of Statement of Principles under the Gambling Act 2005
<b>Report of:</b>	Bhavdip Nakum, Licensing and Systems Officer
<b>Corporate Lead:</b>	Val Garside, Environmental and Housing Services Group Manager
<b>Lead Member:</b>	Cllr J R Mason
<b>Number of Appendices:</b>	2

**Executive Summary:**

This report proposes redrafting the Statement of Principles under the Gambling Act 2005 (Gambling Act Policy) to address the matters cited in this report followed by a six week consultation with public and relevant parties.

**Recommendation:**

1. **To AGREE that a six week consultation be undertaken on the Gambling Act 2005: Statement of Principles 2016-2019; and**
2. **TO RECOMMEND TO COUNCIL that the Gambling Act 2005:Statement of Principles 2016-2019 be ADOPTED with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman of the Licensing Committee.**

**Reasons for Recommendation:**

To ensure the Council effectively meets its obligations under the Gambling Act 2005.

**Resource Implications:**

Total cost of consultation process will be met from existing resources.

**Legal Implications:**

The principal legal implications are set out in the report. The Council has a statutory duty to have a policy and to keep it under review. It is important that the policy statement provides an open and transparent policy regarding the Council's functions under the Gambling Act 2005. The policy statement forms an essential part of the decision making process.

**Risk Management Implications:**

If the policy statement does not address all relevant matters, decisions taken by the Council under the Gambling Act 2005 could be subject to legal challenge.

**Performance Management Follow-up:**

If the Committee recommends a redraft, a Special Licensing Committee meeting will be held to approve the policy statement for consultation or recommend further amendments.

**Environmental Implications:**

None

**1.0 INTRODUCTION AND BACKGROUND**

**1.1** Tewkesbury Borough Council approved the current Statement of Principles under the Gambling Act 2005 on 31 January 2013. The existing statement is attached at **Appendix A**.

**1.2** Section 349 of the Gambling Act 2005 requires a licensing authority to prepare and publish a statement of its policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2005 Act. This policy is required to comply with extensive national guidance and any departures must be supported by evidence justifying a different policy approach.

**2.0 DRAFT REVISED POLICY STATEMENT**

**2.1** The proposed Gambling Act 2005: Statement of Principles 2016-2019 is attached at **Appendix B** and includes two substantive changes relevant to licensing authorities;

- a) The optional inclusion of a Local Area Profile – this is essentially a way of describing a process of gathering and presenting information about a locality and any particular areas of concern within that, to explain and underpin the approach that the licensing authority will apply, as set out in its policy statement. The objective of such a profile is to set (map) out what the area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.
- b) A requirement from 6 April 2016 for operators to assess local risk, in terms of understanding the local environment and reflecting that awareness in their procedures and policies so that they mitigate any local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to share their risk assessments with their local licensing authority when applying for a new premises licence; to vary an existing premises licence; or, upon request by the licensing authority.

**3.0 OTHER OPTIONS CONSIDERED**

**3.1** None

#### **4.0 CONSULTATION**

- 4.1** The guidance recommends a 12 week consultation but, given the timescales available before the next Licensing Committee, as well as the ability of the Licensing Team to engage with stakeholders and consultees quickly, it is recommended that the consultation is held for six weeks.
- 4.2** Consultation will be undertaken with all required parties; responsible authorities; the Gambling Commission; stakeholders; persons carrying on gambling business within the Borough; and, the general public. Any responses received during the consultation period will be taken into account and considered by the Chairman and Vice-Chairman of the Licensing Committee before being taken to the Council for adoption.

#### **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

- 5.1** Tewkesbury Borough Council Plan 2012-16  
Residential Services Service Plan 2013/14  
Environmental Health and Licensing Enforcement Policy

#### **6.0 RELEVANT GOVERNMENT POLICIES**

- 6.1** Gambling Act 2003  
Statutory guidance under the Gambling Act 2003

#### **7.0 RESOURCE IMPLICATIONS (HUMAN/PROPERTY)**

- 7.1** Met from existing resources.

#### **8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

- 8.1** An effective policy statement can help promote community safety and increase public confidence.

#### **9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

- 9.1** Consultation will be carried out via the Council's website.

#### **10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

- 10.1** None

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**Background Papers:** None

**Contact Officer:** Bhavdip Nakum, Licensing and Systems Officer  
01684 272044 [bhavdip.nakum@tewkesbury.gov.uk](mailto:bhavdip.nakum@tewkesbury.gov.uk)

**Appendices:** Appendix A – Gambling Act 2005: Statement of Principles (Current)  
Appendix B – Gambling Act 2005: Draft Statement of Principles 2016 -2019 (Proposed)



## **GAMBLING ACT 2005**

# **STATEMENT OF PRINCIPLES**

Published on DATE and taking effect on 31<sup>st</sup> January 2013

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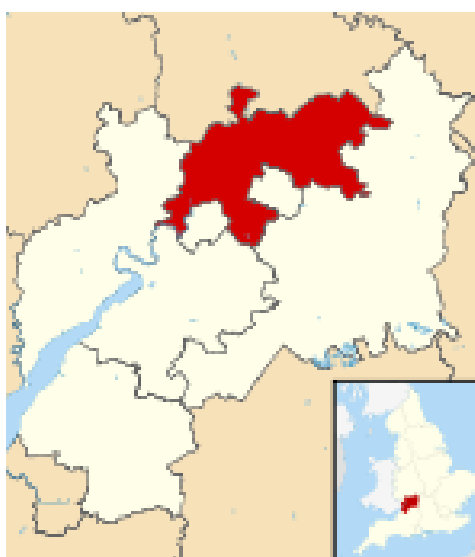
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## **INTRODUCTION**

### **The Borough**

Tewkesbury Borough covers an area of 160 sq miles in North Gloucestershire. The Borough is situated within the Severn Vale and stretches south beyond the outskirts of Gloucester and borders the county of Worcestershire to the north. It occupies the northern gateway into the South West Region.

The Borough is predominantly rural in nature with the three largest towns / villages being Tewkesbury, Winchcombe and Bishops Cleeve.



### **Consultation**

In producing this Statement this licensing authority was obliged to consult with:-

- the chief officer of police for the authority's area
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
- 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 this Act.

A full list of those persons and bodies consulted when drafting this Statement is provided at Annex A to this Statement.

### **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.

## **GENERAL PRINCIPLES**

This Statement of Principles is intended to meet the Council's obligations under Section 349 of The Gambling Act 2005 (referred to in this Statement as "the Act")

In carrying out its licensing functions under the Act, particularly with regard to premises licences, 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 relevant Guidance issued by the Gambling Commission.
- In accordance with this Statement of Principles.
- Consistent with the licensing objectives.

### **Licensing Objectives**

There are 3 licensing objectives which are central to the regulatory regime created by the Act. These are:-

- Preventing gambling from being a source of crime and 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 Act provides for 3 categories of licence:

- Operating licences.
- Personal licences.
- Premises licences.

The Council will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.

### **The Gambling Commission**

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; 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.

The Commission has issued Guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.



The Commission will also issue one or more codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, which may also include provisions about the advertising gambling facilities.

The Gambling Commission's website is [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

### **Authorised Activities**

"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 any other event; or whether anything is true or not.
- 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.

The main functions of the Council are to:

- Licence a premises for gambling activities.
- Grant permits for gambling and gaming machines in clubs.
- Regulate gaming and gaming machines in alcohol licensed premises.
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines.
- Grant permits for prize gaming.
- Consider notices given for the temporary use of premises for gaming.
- Consider occasional use notices for betting at tracks.
- Register small society lotteries.

Spread betting is regulated by The Financial Services Authority.

Remote Gambling is dealt with by the Gambling Commission.

The National Lottery is also regulated separately under specific legislation.

### **General Principles**

The Council recognises the wide variety of premises which will require a licence or a permit under the Gambling Act 2005. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

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. The Council will continue to actively participate in the

Gloucestershire Licensing Officers Group where a consistent Countywide approach to Gambling issues is taken.

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, especially where it receives representation to that effect.

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.

However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own merits.

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

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.

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. There fore, 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.

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. This could include a requirement for appropriately registered / qualified door supervisors.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation 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 therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than could be dealt with as a statutory 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.

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**

The Gambling Commission does not 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.

Because betting track operators do not need an operating licence from the Commission the Council may, in certain circumstances require conditions of licence relating to the suitability of the environment in which betting takes place.

### **Protecting children and other vulnerable people from being harmed or exploited by gambling**

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.

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.

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.

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.

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.

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.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Gloucestershire Safeguarding Children Service for this purpose.

### **Responsible Authorities**

These are generally public bodies that are required by the Gambling Act 2005 to be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives (see page 5).

Section 157 of the Act defines those authorities as:

- The Gambling Commission.
- The Chief Officer of Police.
- The Fire and Rescue Service.
- The local Planning Authority.
- Environmental Health (Pollution Control).
- Designated Child Protection Body.
- Her Majesty's Revenue and Customs.
- Any licensing authority in whose area the premises is situated.

The Gambling Act 2005 makes clear that any concerns expressed by a responsible authority can only be taken into account if they are relevant to the application itself and the licensing objectives.

Examples of representations that would not be relevant to the licensing objectives include:-

- There are too many gambling premises in the locality.
- The premises are likely to be a fire risk.
- The location of the premises is likely to lead to traffic congestion.
- The premises will cause crowds to congregate in one area causing noise and nuisance.

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

## **Interested Parties**

An interested party is someone who:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- Has business interests\* likely to be affected by the authorised activities.
- Represents persons in either of the two groups above.

\* this would include partnerships, charities, faith groups, medical practises etc.

In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Council will take into account, among other things:

- The size of the premises.
- The nature of the premises.
- The distance of the premises from the person making the representation.
- The nature of the complaint.
- The potential impact of the premises.

In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- The size of the premises.
- The catchment area of the premises.
- Whether the person making the representation has business interests in the catchment area that might be affected.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Council would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The Council may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Council will normally consider:

- Who is making the representation and whether there is a history of making representations that are not relevant.
- Whether it raises a “relevant” issue or not.
- Whether it raises issues specifically to do with the premises which are the subject of the application.

## **Exchange of Information**

Subject to the provisions of the Data Protection Act 1998 the Council will share any information it receives, through the application process with the Gambling Commission. In doing so the Council will have regard to the Act itself, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

## **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 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.
- 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 so far as possible.

This licensing authority will adopt and implement a risk-based inspection programme, based on;

- The licensing objectives.
- Relevant codes of practice.
- Guidance issued by the Gambling Commission.
- The principles set out in this statement of principles.

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 licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## **The licensing process**

The Council's licensing functions under the Act will be carried out by the Licensing Committee, supported by a sub-committee and by officers acting under the delegated authority of the committee.

Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application, the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.

The Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.

## **PREMISES LICENCES**

A premises licence can authorise the provision of facilities at the following:

- Casino premises.
- Bingo premises.
- Betting premises, including betting tracks.
- Adult gaming centres.
- Family entertainment centres.

Other than an application for a betting premises licence in respect of a track, the Council is not able to issue a premises licence unless the applicant holds that relevant operating licence from the Gambling Commission.

When considering applications for premises licences, the Council will not take into consideration either the expected "demand" for facilities or the likelihood of planning permission being granted.

The Council will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

### **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 park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions 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 Authorities that: “In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street 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 states 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.

### **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.

### **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.
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, 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 way 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 the 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.
- 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, 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).
- Conditions in relation to stakes, fees, winning or prizes.

## **Casino Premises**

There are no existing casino premises licences in force in the Borough.

On 17<sup>th</sup> April 2012 Tewkesbury Borough Council resolved under section 166(1) of the Gambling Act 2005 not to issue Casino Premises Licences. This resolution took effect from 28<sup>th</sup> July 2012.

The Gambling Commission will be responsible for issuing at least one code of practice about access to casino premises by children and young persons, which would mean that no one under 18 years of age would be able to enter casino premises and entrances to the casino or gambling area would be required to be properly supervised.

## **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.

### **(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 areas.
- 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.

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.

### **Betting Premises**

Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. 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.

Each application will be considered on its own merits.

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.

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.

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.

When considering whether to exercise its power to restrict the number of betting machines at a track, the Council 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, young persons and vulnerable people from betting on the machines.

## **Bingo Premises**

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Council.

Amusement arcades providing prize bingo will require a prize gaming permit from the Council.

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. 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.

A limited number of gaming machines may also be made available at bingo licensed premises.

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.

## **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.
- In accordance with the authority's statement of principles.

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.
- (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.
- Her Majesty's Commissioners for Revenue and Customs.

## **PERMITS, NOTICES AND REGISTRATIONS**

### **Unlicensed Family Entertainment Centre gaming machine permits**

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 their three year licensing 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." (24.6)

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).
- That staff are trained to have a full understanding of the maximum stakes and prizes (24.7).

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 measures / 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 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.

### **(Alcohol) Licensed premises gaming machines**

#### **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.
- 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 harmed 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 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 of help. As regards the protection of vulnerable persons, applicants will be expected to provide 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.

### **Prize Gaming Permits**

Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A Prize Gaming Permit can be issued by a licensing authority to authorise the provision of prize gaming on a commercial basis on specified premises.

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 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).
- Participation in the gaming must not entitle the player to take part in any other gambling.

### **Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. A Club Gaming Permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members Clubs, Miners' welfare institutes and Commercial Clubs may apply for a Club Machine Permit. A Club Machine Permit enables the premises to provide gaming machines in accordance with the relevant regulations.

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

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 persons.
- (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.
- (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.
- (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 and club machine 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.

### **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, 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 can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

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. 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, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **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.

The licensing authority will share information with the Gambling Commission in respect of occasional use notices served in respect of tracks in the licensing authority’s area.

**Registration of Small Society Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the gaming commission or it is an “exempt” lottery as defined by the Act.

One of those exemptions is in respect of what are termed “small society lotteries” and the council is responsible for registering these “small” lotteries.

A society will be allowed to register with the council if it is a ‘non-commercial ‘ lottery, in other words, it is established and conducted:

- For charitable purposes.
- For the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
- For any other non-commercial purpose other than private gain.

The Council will maintain a register of small society lotteries which it has registered.

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING SUB-COMMITTEE (LICENSING	OFFICERS
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		PANEL)	
Licensing Policy	X		
Policy not to issue casino premises licences	X		
Fee setting – when appropriate			X To be approved by the Licensing Committee
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
Application for the transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Request to review a premises licence			X (in consultation with the Council Solicitor)
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed prize gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice			X

## **DEFINITIONS**

Licensing Objectives:	As defined in the Gambling Act 2005.
Borough of Tewkesbury:	The area of Gloucestershire and Worcestershire administered by Tewkesbury Borough Council.
Licences:	As defined in The Gambling Act 2005.
Application(s):	Application(s) for licences and permits as required by The Gambling Act 2005, or an application for a review of such a licence.
Notifications:	Means notification of temporary and occasional use notices.
The Act	The Gambling Act 2005.
Regulations:	Regulations made under the Gambling Act 2005.
Premises:	As defined in the Gambling Act as being “any place, including a vehicle, vessel or moveable structure”.
Code of Practice:	Means any relevant code of practice under Section 24 of The Gambling Act 2005.
Mandatory Condition:	Means a specified condition provided by regulations that are required to be attached to a licence.
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by The Authority.
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"><li>1. The Licensing Authority in whose are the premises are wholly or mainly situated (Tewkesbury Borough Council);</li><li>2. The Gambling Commission;</li><li>3. Gloucestershire Constabulary;</li><li>4. Gloucestershire Fire and Rescue Service;</li><li>5. Development Control Manager, Planning Department, Tewkesbury Borough Council;</li><li>6. Environmental Protection Manager, Tewkesbury Borough Council;</li><li>7. Gloucestershire child protection unit</li><li>8. HM Customs and Excise.</li></ol>
The Policy Document	Tewkesbury Borough Council’s Statement of Principles.

## **ANNEX A – LIST OF CONSULTEES**

**Chief Officer of Police, Gloucestershire Constabulary**

**Gambling Commission**

**Gloucestershire Fire and Rescue Service**

**Planning Department, Tewkesbury Borough Council**

**Environmental Protection Team, Tewkesbury Borough Council**

**Gloucestershire Safeguarding Children Service**

**Casino Operators Association of the UK**

**National Casino Industry Forum**

**Association of British Bookmakers**

**Independent Bookmakers Association**

**British Betting Office Association**

**Bingo Association**

**BACTA**

**Business in Sport and Leisure**

**British Holiday and Home Parks Association**

**GamCare**

**British Beer and Pub Association**

**British Institute of Innkeeping**

**All Town and Parish Councils in the Borough of Tewkesbury**

**In addition any other interested person was able to take part in the consultation which was publicised on the Tewkesbury Borough Council website.**



**GAMBLING ACT 2005**

**DRAFT STATEMENT OF PRINCIPLES  
2016 - 2019**

**Tewkesbury Borough Council, Council Offices  
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

**[www.tewkesbury.gov.uk/licensing](http://www.tewkesbury.gov.uk/licensing)**

Revised with effect from DATE

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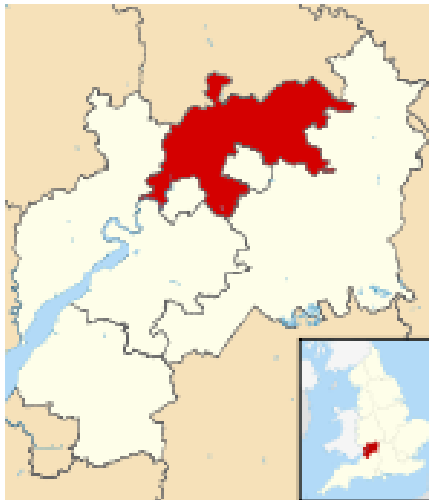
## 1.0 Introduction and local area profile

1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts be consulted upon.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.

Gambling is not a significant industry or activity within the borough. Therefore, any new gambling proposal which seeks to intensify gambling activities will be very carefully considered and reviewed to ensure it does not significantly alter, adversely affect or otherwise impact upon the current level of gambling activity across the borough.



### 1.2 The Licensing Objectives

In exercising most of the functions under the Act, we 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.

In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;

- in accordance with any relevant code of practice issued by the Gambling Commission (“the Commission”) under section 24 of the Act;
- in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority’s statement of licensing policy.

1.3 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission<sup>1</sup>, and any responses from those consulted with on the statement.

#### 1.4 **Responsible Authorities**

Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.

We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;

- a) the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- b) 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 Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire County Council<sup>2</sup>.

#### 1.5 **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 Act 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 paragraphs (a) or (b) above."

We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;

- a) Each case will be decided upon its merits
- b) We will not apply a rigid rule to its decision making
- c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.

Interested parties can be persons who are democratically elected such as councillors and MPs. 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 and councillors 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.

#### 1.6 **Exchange of Information**

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<sup>1</sup> <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>

<sup>2</sup> <http://www.gloucestershire.gov.uk/policy/children-families>

We are required to include in our statements the principles with respect to the exchange of information between us and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

We will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any guidance issued by the Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

### 1.7 **Enforcement**

We will carry out enforcement in accordance with the Council's Environmental Health and Licensing Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.

### 1.8 **Licensing Authority functions**

Our main functions under the Act are to;

- a) be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- b) issue Provisional Statements
- c) regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- d) issue Club Machine Permits to Commercial Clubs
- e) grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres (FECs)
- f) receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- g) 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
- h) register small society lotteries below prescribed thresholds
- i) issue prize gaming permits
- j) receive and endorse temporary use notices
- k) receive occasional use notices
- l) provide information to the Commission regarding details of licences issued (see section 1.6)
- m) maintain registers of the permits and licences that are issued under these functions.

We are not involved in licensing remote gambling; remote gambling is regulated by the Commission<sup>3</sup>.

## 2.0 **Premises licences: consideration of applications**

### 2.1 **General Principles**

Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the 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 necessary.

### 2.2 **Decision making**

In making decisions about premises licences, we shall consider;

- a) relevant code of practice issued by the Commission;
- b) relevant guidance issued by the Commission;
- c) the licensing objectives; and
- d) our statement of licensing policy.

<sup>3</sup> <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

We will also follow the Commission's guidance on "appropriate licensing environment" (previously known as primary gambling activity) when making decisions on premises licences.

It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to 'provide facilities for betting'<sup>4</sup>. Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...'<sup>5</sup>. The ability to make up to four gaming machines, within categories B, C or D, available is an additional authorisation conferred upon the holder of a betting premises licence<sup>6</sup>; it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.

It is also important in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.

Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. 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 of the outcome and collect any winnings.

### 2.3 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 park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

When determining applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, we will consider;

- a) The protection of 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.
- b) That 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.
- c) That customers should be able to participate in the activity named on the premises licence.
- d) If the premises have a separate registration for business rates
- e) If any neighbouring premises owned by the same person or associates.
- f) If premises can be accessed from the street or a public passageway.
- g) If the premises only be accessed from any other gambling premises.

We will consider these and other relevant factors in making a decision, depending on all of the circumstances of the case. Relevant access provisions for each premises type is published in the Gambling Commission's Guidance.

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/2005/19/section/65>

<sup>5</sup> <http://www.legislation.gov.uk/ukpga/2005/19/section/150>

<sup>6</sup> <http://www.legislation.gov.uk/ukpga/2005/19/section/172>

## 2.4 Premises “ready for gambling”

A licence to use premises for gambling should only be issued in relation to premises that we are 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 it needs alteration, or if the applicant does not yet have a right to occupy it, 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, we will determine applications on their merits, applying a two stage consideration process;

- a) whether the premises ought to be permitted to be used for gambling, and then
- b) 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 we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission’s Guidance.

## 2.5 Location

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

## 2.6 Planning

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we 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.

## 2.7 Duplication with other regulatory regimes

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, 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, we 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.

## 2.8 Local Risk assessments

The Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks<sup>7</sup>. The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. These changes take effect from 6 April 2016.

Licensees must review (and update as necessary) their local risk assessments;

<sup>7</sup> <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.

## 2.9 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

### a) **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

We will pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime we 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. We will make 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.

### b) **Ensuring that gambling is conducted in a fair and open way**

The Commission 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. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

### c) **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

As regards the term "vulnerable persons", the 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 health impairment, alcohol or drugs." We will consider this licensing objective on a case by case basis.

## 2.10 Conditions

Any conditions attached to licences will be proportionate and will be;

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, 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. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

We 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 Commission's Guidance.

We will also ensure that where category C or above machines<sup>8</sup> are on offer in premises to which children are admitted;

- a) 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;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) 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.

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the 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.

There are conditions which we cannot attach to premises licences, these are;

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- d) conditions in relation to stakes, fees, winning or prizes.

## 2.11 **Door Supervisors**

If there are concerns that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (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.

## 2.12 **Betting premises**

The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

We are responsible for issuing and monitoring premises licences for all betting premises.

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<sup>8</sup> <http://www.legislation.gov.uk/ukxi/2014/45/made>



a) **Self Service Betting Terminals (SSBTs)**

Section 235 (2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

Use of SSBTs is a form of remote communication and a remote licence will be required from the Commission if SSBTs are used to facilitate the making or accepting of bets by others.

Section 181 contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino).

2.13 **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

We 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 us that there will be sufficient measures to address these matters.

We may consider measures to meet the licensing objectives such as;

- a) Proof of age schemes
- b) Closed-circuit television (CCTV)
- c) Supervision of entrances and/or machine areas
- d) Physical separation of areas
- e) Location of entry
- f) Notices and/or signage
- g) Specific opening hours
- h) Self-exclusion schemes
- i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare<sup>9</sup> and/or GambleAware<sup>10</sup>.
- j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

2.14 **Casinos**

There are no existing casino premises licences in force in the Borough.

On 17<sup>th</sup> April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28<sup>th</sup> July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

<sup>9</sup> <http://www.gamcare.org.uk/>

<sup>10</sup> <http://www.gambleaware.co.uk/>

## 2.15 **Bingo premises**

We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13<sup>th</sup> July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

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 code provision 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.

## 2.16 **Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will 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.

We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided. We may also consider additional measures outlined in paragraph 2.13.

Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.

Betting machines: We will take into account the size of the premises 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 and circumstances of betting machines an operator proposes to offer.

## 2.17 **Applications and plans**

Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the statutory regulations.

We are aware that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

We will not accept plans if they fail to provide sufficient information to enable us to assess an application.

## 2.18 **Travelling Fairs**

Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.

Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are 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.

We will also consider whether the applicant falls within the statutory definition of a travelling fair and we will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 2.19 **Provisional Statements**

Developers may wish to apply to us 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.

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;

- a) expected to be constructed;
- b) expected to be altered; or
- c) expected that they will 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 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 is 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;

- a) they concern matters which could not have been addressed at the provisional statement stage; or
- b) they reflect a change in the applicant's circumstances.

We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;

- a) which could not have been raised by objectors at the provisional statement stage;
- b) which in the authority's opinion reflect a change in the operator's circumstances; or;
- c) 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.

## 2.20 **Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us 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;

- a) in accordance with any relevant code of practice issued by the Commission;
- b) in accordance with any relevant guidance issued by the Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the authority's statement of licensing policy.

The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.

We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which is necessary to uphold the licensing objectives.

Once we receive a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will also publish notice of the application within that period.

We will 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 we should take any action in relation to the licence. If action is justified, we may;

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

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

We 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, we will notify our decision to;

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

## **3.0 Permits, notices and registrations**

### **3.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)**

Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

- 3.2 We expect the applicants 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 measures/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 or around the premises.

We also expect that applicants 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.

### **3.3 (Alcohol) Licensed premises gaming machines**

**a) 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.

We can remove the automatic authorisation in respect of any particular premises if;

- i. Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ii. Gaming has taken place on the premises that breaches a condition of section 282 of the 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 Commission about the location and operation of the machine has been complied with);
- iii. The premises are mainly used for gaming; or
- iv. An offence under the Act has been committed on the premises.

**b) Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. 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 that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and 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.

We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.

Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

**3.4 Prize Gaming Permits**

Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- a) That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- b) That the gaming offered is within the law.
- c) Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- a) The limits on participation fees, as set out in the statutory regulations, must be complied with.
- b) 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.

- c) The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- d) Participation in the gaming must not entitle the player to take part in any other gambling.

### 3.5 Club Gaming and Club Machines Permits

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members clubs, miners' welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.

Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

We may refuse an application on the grounds that;

- a) for a club gaming permit: the applicant is not a members' club or miners' welfare institute
- b) for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
- c) the premises are used by children or young persons
- d) an offence or a breach of a condition of the permit has been committed by an applicant
- e) a permit held by an applicant has been cancelled during the last ten years
- f) an objection has been made by the Commission or local chief officer of 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).

Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which we can refuse a permit are reduced.

We may refuse an application on the following grounds;

- a) the club is established primarily for gaming, other than gaming prescribed under schedule 12.
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming.
- c) 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 and club machine 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.

### 3.6 Temporary Use Notices

Temporary use notices (TUNs) 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 TUN would include hotels, conference centres and sporting venues.

We can only grant a TUN to a person or a 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 TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.

We may 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, as recommended in the Commission's guidance to licensing authorities.

### **3.7 Occasional Use Notices**

We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

### **3.8 Registration of Small Society Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.

One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.

A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;

- a) for charitable purposes.
- b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
- c) for any other non-commercial purpose other than private gain.

We will maintain a register of small society lotteries.

## **4.0 Committee decisions and scheme of delegation**

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

#### 4.1 Table of delegations of licensing functions

	<b>Full Council</b>	<b>Licensing Sub-Committee (Licensing Panel)</b>	<b>Officers</b>
<b>Licensing Policy</b>	✓		
<b>Policy not to issue casino premises licences</b>	✓		
<b>Fee setting – when appropriate</b>			✓ To be approved by the Licensing Committee
<b>Application for premises licences</b>		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
<b>Application for a variation to a licence</b>		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
<b>Application for the transfer of a licence</b>		Where representations have been received from the Commission	Where no representations have been received from the Commission
<b>Application for a provisional statement</b>		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
<b>Request to review a premises licence</b>			✓ (in consultation with the Council Solicitor)
<b>Review of a premises licence</b>		✓	
<b>Application for club gaming / club machine permits</b>		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
<b>Cancellation of club gaming/club machine permits</b>		✓	
<b>Applications for other permits</b>			✓
<b>Cancellation of licensed prize gaming machine permits</b>			✓
<b>Consideration of temporary use notice</b>			✓
<b>Decision to give a counter notice to a temporary use notice</b>			✓



# Agenda Item 7

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