

# **Tewkesbury Borough Council**

## **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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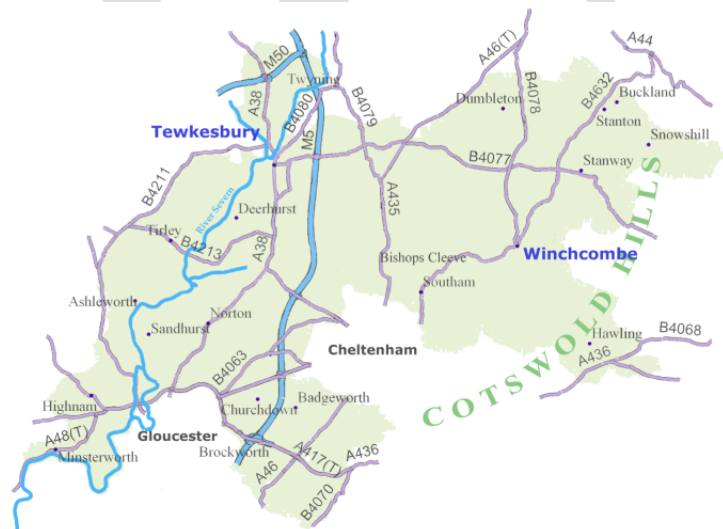
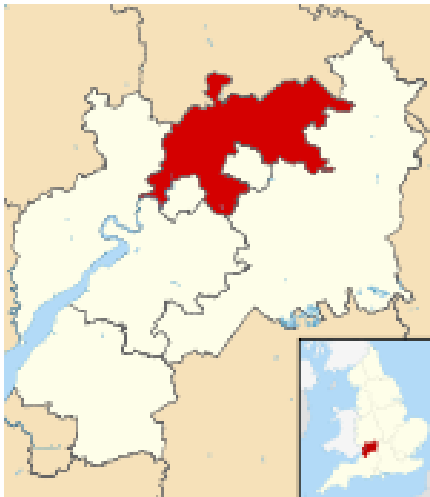
## 1.0 Introduction and local area profile

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.

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<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;

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<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/uksi/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.

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<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>			✓