



## **GAMBLING ACT 2005**

# **STATEMENT OF PRINCIPLES**

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

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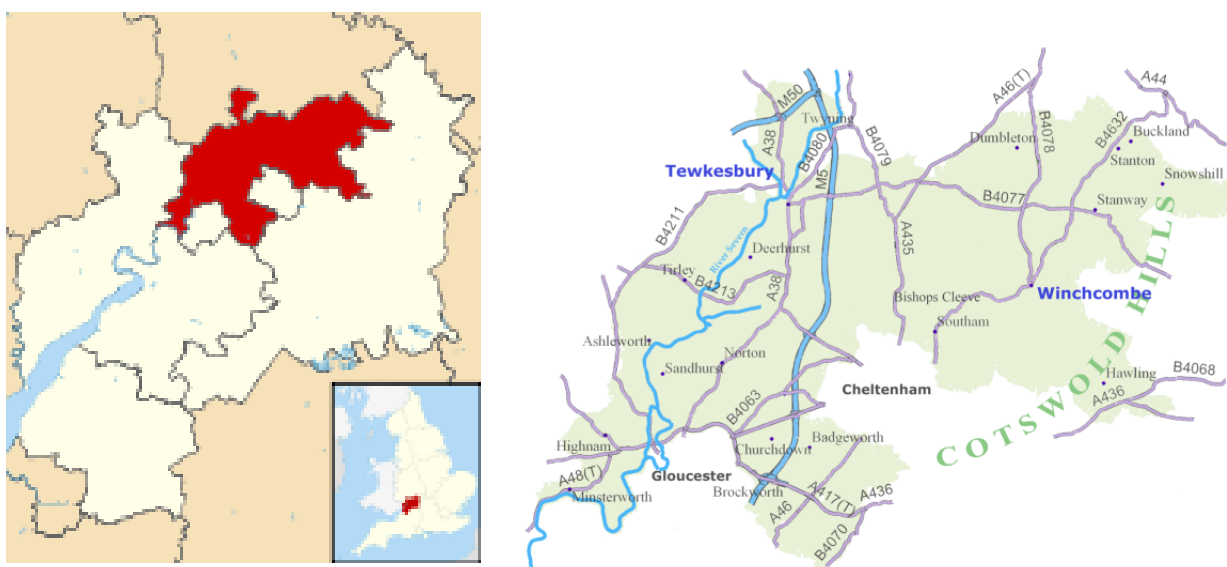
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## **INTRODUCTION**

### **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.**