



SWALE BOROUGH COUNCIL
GAMBLING POLICY
Statement of Gambling Policy 2016-2019

This Statement of Principles was prepared under Section 349 of the Gambling Act 2005 with regard to Guidance issued by the Gambling Commission. Please note that this Statement is to be regarded as an interim Statement required to meet the Council's statutory obligations. The Council is aware that the Gambling Commission will be publishing shortly revised guidance and when this is available the Council will undertake a full review of the Statement to ensure that it complies with any revised guidance issued.

Contents

PART ONE: Overview of the Gambling Policy.

- 1.1- Introduction of the Policy and Gambling Objectives
- 1.2- Description of Swale Borough
 - 1.2.1 Faversham
 - 1.2.2 Sheerness
 - 1.2.3. Leysdown
 - 1.2.4 Sittingbourne
- 1.3- Declaration
- 1.4- No Casino Resolution

PART TWO: Functions.

- 2.1- Functions
- 2.2- Exchange of Information
- 2.3- Duplication with other regulatory regimes
- 2.4- Responsible Authorities
- 2.5- Interested Parties
- 2.6- Enforcement

PART THREE: The Policy.

- 3.1- Policy Approach supporting each of the Gambling Objectives

PART FOUR: Premises.

- 4.1- Premises Licence
- 4.2- Definition of 'Premises'
- 4.3- Primary gambling activity
- 4.4- Building Divided into more than one premises
- 4.5- Separation of premises within a single building.
- 4.6- Access to premises
- 4.7- Location
- 4.8- Door Supervisors
- 4.9- Planning

PART FIVE: Appendices.

Appendix 1 -The Gambling Policies

- 1.1- Preventing gambling from being a source of crime and disorder. .
- 1.2- Ensuring that gambling is conducted in a fair and open way.
- 1.3- Protecting children and other vulnerable persons.

Appendix 2 - Premises Licence

- 2.1 Adult Gaming Centres
- 2.2 Family Entertainment Centre
- 2.3 Tracks
- 2.4 Casinos

- 2.5 Bingo
- 2.6 Betting

Appendix 3 – Permits

- 3.1- Unlicensed Family Entertainment Centre
- 3.2- (Alcohol Licensed) premises Gaming Machine Permit
- 3.3- Prize Gaming Permit
- 3.4- Club Gaming & Club Machine Permit

Appendix 4 - Occasional Notices & Travelling fairs

Appendix 5 - Application and Reviews

- 5.1- Decision Making
- 5.2- Conditions
- 5.3- Provisional Statement
- 5.4- Duplication
- 5.5- Reviews

Appendix 6 - Functions (Licensing Authority & Gambling Commission)

Appendix 7 - Agreed Delegations

Contacts

(Listed of all relevant authorities)

Gambling Policy Vision Statement:

“Transform Swale economic, social and environmental prospects, so that it is one of the best places in Britain, in which to live, work, learn and invest”

PART ONE: Overview of the Gambling Policy.

1.1. Introduction of the Policy and Gambling Objectives:

Swale Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act), and responsible for the administration of Premise Licenses, Permits and enforcement. We are required to publish a Statement of principles that we shall apply when exercising our functions under the Act. This statement must be published every three years, though it is under constant review. Amendments can be made, but will be consulted upon and then formally adopted by Council.

In exercising its functions under the Gambling Act 2005 and in accordance with section 153 of the Act this licensing authority shall **aim to permit** the use of premises for gambling in so far as the authority think it is;

- in accordance with any relevant code of practice,
- in accordance with any relevant guidance issued by the Gambling Commission,
- reasonably consistent with the licensing objectives , and
- in accordance with this gambling policy statement.

When the Licensing Authority is discharging its functions under the Act, it will present clear reasons for any need to depart from the Guidance issued by the Gambling Commission (May 2009), or from this Statement of Gambling Policy. It will consider the circumstances of each application and may make exceptions to its own policy where it is appropriate to do so, in order to promote the Gambling objectives.

Through this policy the Licensing Authority aims to:

- introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
- The encouragement of more family friendly premises where younger children can be free to go with the family;
- The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting gambling premises.

The Gambling Objectives:

In exercising most of their functions under the Act, the licensing authority must have regard to the Gambling objectives as set out in Section 1 of the Act. The Gambling objectives are:

- Preventing gambling from being a source of crime and disorder, being associated with crime and 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.

1.2. Description of Swale Borough:

The Borough of Swale is the fourth-largest of the 12 districts which make up the county of Kent. Swale has a prime location on the county's north coast between Medway, Maidstone and Canterbury, around 45 miles from London. It includes the towns of Sittingbourne, Faversham and Sheerness, as well as an extensive rural hinterland which takes in the whole of the Isle of Sheppey and part of the Kent Downs Area of Outstanding Natural Beauty. The borough covers an area of 140 square miles, roughly one-tenth of Kent, and is home to 139,200 residents.

Latest population data* is as follows:
*2013 Mid-Year ward estimates ex ONS (via KCC):
Faversham town: 19,400
Faversham area: 33,200
Sittingbourne town: 48,700
Sittingbourne area: 64,000
Sheppey area: 42,000
Sheerness town: 12,300
Minster : 14,800 – 2011 Census

The age breakdown is as follows:

Age Range	Number * based on mid-year 2013 estimates	%
Under 16	27887	21.42
16:19	8507	6.54
20:29	16179	12.43
30:59	45734	35.13
60:74	22342	17.16
75 and over	9524	7.32

It is a diverse Borough containing three distinct towns, connected by their relationship with the waters of the North Kent coast, particularly the Swale channel. Each town has developed and maintained its own special identity and character.

1.2.1 Faversham Town:

Faversham is an important historic market town, with brewing and food processing comprising the town's main industries. To enhance the town's social, economic and environmental structure, the Gambling Policy will promote diversity and provide opportunities for new employment; but not directly or indirectly encourage anti-social behaviour within the town. Faversham has various licensed gambling facilities.

1.2.2 Sheerness Town:

Sheerness provides goods and services primarily for the resident population of the Isle of Sheppey, only specific services, such as the town's supermarket attracts shoppers from further afield. Sheerness is the biggest town on the Isle of Sheppey, owing much of its heritage to the naval dockyard, which has since been converted to a deep water commercial port.

To make the town more attractive to visitors, so far as is consistent with its duties under the Act the Council will support proposals that will stimulate the evening economy but they should be aimed more at the holiday market and leisure entertainment facilities. Sheerness has various licensed gambling facilities which support this aim.

1.2.3 Leysdown-on-Sea (Island Coast):

Special attention is drawn to Leysdown-on-Sea, as it has particular importance within Swale under the Gambling Act, due to its high concentration of gambling establishments along The Promenade. The Promenade consists mainly of amusement arcades (both Family and Adult Gaming Centres), Leysdown became a popular destination for visitors from London in the post-war period and continues to thrive today; it also benefits from Holiday Parks which are an important feature of the landscape.

1.2.4 Sittingbourne Town:

Sittingbourne prospered as a market town, but has since focused on manufacturing. New proposals to regenerate Sittingbourne, may lead to considerable growth in employment, as plans include increases in retail and entertainment, to minimise the need for people to travel elsewhere.

Sittingbourne benefits several different types of licensed gambling premises.

1.3. Declaration:

In producing the Statement of Gambling Policy , the Licensing Authority declares that it has had regard to the Gambling objectives under the Gambling Act 2005, the guidance issued by the Gambling Commission 4th Edition , and any representation from those consulted on the this policy.

(Please note that a full review of the policy will be undertaken when the 5th Edition of the guidance is published)

1.4. No Casino's Resolution:

This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution

PART TWO: Functions.

2.1. Functions:

The Council as a Licensing Authority have the discretion on whether to grant or refuse application under the Act , and to impose conditions on granting licenses if representations relevant to the Gambling Objectives are made by 'Interested Parties' or by 'Responsible Authorities' within the prescribed time.

Should the Licensing Authority refuse an application, it shall give a full explanation for its reasons, and applicants have the right to appeal.

A list of the Licensing Authority's functions and the Gambling Commission functions are listed at the end of the policy. Please note that the Licensing Authority is not responsible for remote gambling and that any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but must be reported to the Gambling Commission.

2.2. Exchange of Information:

Licensing Authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under Section 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and that functions under section 350 of the Act with respect to the exchange of information between it and other persons.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Act in its exchange of information which includes the provisions that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the secretary of State under the powers provided in the Act.

2.3. Duplication with other regulatory regimes:

The council will seek to avoid any duplication with other statutory and regulatory systems where possible, including planning. The licensing authority will not consider whether an application for a premises licence, permit or other permission is for a premise that has been or is likely to be awarded planning permission or building regulations approval, in its own consideration of it. Nor will it regard that granting of a licence, permit or permission as fettering the council's ability to consider planning applications independently on their planning merits.

2.4. Responsible Authorities:

In exercising this licensing authority's 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 following principles have been applied:

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

In accordance with the Gambling Commission's Guidance this authority designates the following for this purpose:

- Child Protection Agency, Brenchley House, County Hall, Maidstone, Kent ME14 1RF

2.5. Interested Parties:

Interested parties can make representation 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 applications is made, the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- Has business interests that might be affected by the authorised activities; or
- Represents persons who satisfy paragraph (a) or (b)”

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

The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision-making. It will however consider the following as per the Gambling Commission's Guidance to local authorities:

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The circumstances of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that ‘sufficiently

close to be likely affected' could have a different meaning for (a) a private resident or (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.

- The 'catchment' area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

The Gambling Commission has emphasised to licensed authorities, that 'demand' cannot be a factor in decisions.

Guidance also states that moral objections to gambling are not valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives.

The Gambling Commission has also recommended that the licensing authority state that interested parties include trade associations and trade unions, and resident and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Act. I.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.

Interested parties can be represented by other persons such as Councillors, MP's etc. Care should be taken when approaching Councillors that they are not part of the Licensing Committee dealing with the licence as this may result in a conflict of interest. If there are any doubts then please contact the Licensing Department.

2.6. Enforcement:

The Kent & Medway Licensing Steering Group has formulated an Enforcement Protocol which each Licensing Authority and Responsible Authority has agreed. The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Act and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues.

In accordance with the Gambling Commission Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based inspection programme.

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 for local authorities and it 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; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences.

PART THREE: THE POLICY

3.1 Policy approach

As mentioned above the Gambling Act contains three licensing objectives which underpin the functions of the licensing authority. These objectives are set out in section 1.1 above.

In reviewing this Statement of Principles it was considered that the council should adopt a 'best practice' approach from leading authorities, and to set out the criteria and considerations that applicants should have in mind when preparing an application under the Gambling Act 2005. The policies have been developed with reference to the licensing objectives and in consultation with responsible authorities.

Section 153 of the Act states that in exercising its functions under the Act the licensing authority shall aim to permit gambling in so far as it thinks it is: in accordance with the commission's codes and guidance to local authority's statement of principles. The authority intends to assist applicants, responsible authorities and interested parties by detailing the criteria that it will consider as being reasonably consistent with each of the objectives when considering application.

PART FOUR: The Premises.

4.1. Premises Licence.

Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a premises licence.

Premises licences can authorise the provision of facilities on:

- Casino premises,
- Bingo premises,
- Betting premises (including tracks and premises used by betting intermediaries,
- Adult gaming centre, or
- Family entertainment centre premises

For each premises type the Act makes it clear that the primary activity should be that described in the premises licence type. It is the council's opinion that all gambling premises, whether subject to application or currently licensed, must operate primarily in the use of the licence type applied for or issued.

A premises licence issued by the Licensing Authority will be subject to mandatory and/or default conditions and may be subject to conditions imposed by the council. The council may consider that conditions, other than the mandatory or default conditions are necessary to ensure that the premises are reasonably consistent with the licensing objectives, the commission's code of practice and/or local authority guidance, and this statement of principles.

4.2. Definition of 'Premises'.

'Premises' is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its Guidance for local authorities, it "will always be a question of fact in the circumstances." The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, licensing authorities "should be aware that:

- 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 that they are not permitted to be 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; and

- entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area."

This licensing authority will also take note of the Gambling Commission's Guidance to local authorities that: "Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act."

4.3 Primary gambling activity.

The primary activity of each premises licence type is specified on the premises licence when it is issued. Section 150 of the Act authorises the provision of gambling facilities for the following types of premises licences:

- Casino premises,
- Bingo premises,
- Betting premises (including tracks and premises used by betting intermediaries,
- Adult gaming centre, or
- Family entertainment centre premises

In betting premises the primary activity will be betting, with gaming machines as an ancillary offer on the premises. The commission has provided information relating to the primary gambling activity in both the Local Authority Guidance and Supplement 4 of the Licence Conditions and Codes of Practice which was published in January 2009. This supplement sets out the requirements on the operator to ensure that their premises operate within the terms of the Act and the relevant conditions. It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

The council will take decisions in accordance with the Commission's view on primary gambling activity and will expect applicants to operate premises in line with the commissions Guidance and conditions on their operators licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the commission. Applications for new premises licences, or to vary existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting counter or associated betting facilities shown on the proposed plans, will not be considered as offering the primary gambling activity in accordance with that indicated on the application.

4.4. Building divided into more than one premises.

Part 7 of the Commissions Guidance states that a building can, in principle, be divided into more than one premises, and 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 reasonable regarded as being different premises. An example is given of the units within shopping malls, where each unit is a separate self contained premises that is contained within one building. It is also possible for licensed premises to be located next to each other.

Whether different parts of the building can be reasonable regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the council will need to be satisfied that the different premises are genuinely separate premises, and not an artificially created part of what is readily identifiable as a single premise.

In considering whether different areas of a building are genuinely separate premises the council will take into account factors which will include: whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

4.5. Separation of premises within a single building.

When considering proposals to divide a building into genuinely separate premises the council will also need to be satisfied that the form of separation between the premises is appropriate.

The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another. The council would not, for example, be likely to consider that separation of areas of a building by ropes, or by low level, or moveable partitions to be appropriate.

It may be acceptable for staff working in adjacent premises to have access through barriers between premises to enable them across one premises from the other. The applicant must demonstrate that in providing this staff access there are suitable control measures in place that will ensure the safety and security of staff and that will effectively prevent the public from using the same access point to enter the other premises.

4.6. Access to premises.

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises the council will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.

The relevant provisions of the regulations relating to access are set out in the Commission's Guidance. In a number of types of licensed premises provisions on access that prevent customers from being able to enter the premises directly from other licensed premises.

The Commission Guidance states "There is no definition of 'direct access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access".

4.7. Location.

This licensing authority notes the Gambling Commission's Guidance for local authorities which states that: "Licensing authorities will need to consider the location of premises without the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors"

4.8. Door Supervisors.

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

Any person employed to fulfil a condition on a premises licence that requires door supervision should hold a relevant licence issued by the Security Industry Authority (SIA).

It is to be noted that door supervisors at licensed casino or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act.

The authority will make a door supervision requirement for betting offices, only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

4.9. Planning.

Planning and licensing are different regulatory systems and will be dealt with separately. As the Gambling Commission's Guidance states: "When dealing

with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions should such a situation arise.

APPENDIX ONE: THE GAMBLING POLICIES.

This licensing authority has considered the Gambling Commission's Guidance to local authorities and in reviewing its first Statement of Principles it was considered that the council should attempt to assist the applicants by setting out the criteria and considerations that they should have in mind when preparing an application under this Act.

Section 153 of the Act states that in exercising its functions under the Act the licensing authority shall aim to permit gambling. The authority intends to assist applicants, responsible authorities and interested parties by detailing the criteria that it will consider as being reasonable consistent with each of the objectives when considering applications.

1.1: To preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

To prevent crime and disorder the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria:

- Whether the premises make or will make a contribution to the levels of crime and disorder and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

Considerations:

- Where an area is known for high levels of crime the council will consider carefully whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.
- Whether there is a history of crime and disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- Whilst issues of nuisance are not specifically in the gambling objections, the council may consider, when making decisions on the applications for premises licences, whether extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- Whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
- Whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

Reasons for Policy:

Applicants for premises licenses will have to hold an operators licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The licensing authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commissions Guidance, codes or practice and this Statement of Principles.

The Council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, a gambling premises. The applicant will have to provide evidence that they meet the criteria set out in this policy and demonstrate that in operating the premises they will promote this objective. Operators need to be aware of how the operation of their premises may impact on this objective. The council will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out. The operator must meet the Commission's requirements to obtain and hold an operators licence, whilst the Licensing Authority's concerns are focused on the premises and how the operation of the premises will affect the licensing objectives.

1.2: To ensure that gambling is conducted in a fair and open way.

To ensure that gambling is conducted in a fair and open way, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria:

- Whether the premises will operate with such measures that will ensure that the gambling activity is conducted in a fair and open way.

Considerations:

- Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
- Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- Whether the management and operation of the premises is open and transparent.
- Whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
- Whether the Commissions Codes of Practice have been complied with.

Reason for Policy:

The Gambling Commission is the authority primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way, as this will be subject to their operating licence. The Licensing Authority will consider each application on its own merits and will look closely at applications where there is no requirement to hold an operators licence. Track owners do not necessarily require an operators licence and any application made by such an unlicensed operator will be scrutinised to ensure that this objective is met. In these circumstances, the applicant would be expected to address how they intend to ensure that gambling will be conducted fairly and openly.

1.3: To protect children and other vulnerable persons from being harmed or exploited by gambling.

To prevent children or vulnerable persons from being harmed or exploited, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria:

- Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling;

Considerations:

- Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to promote this objective, to exclude them from the premises or parts of the premises.
- If the premises are an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.
- Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
- Whether any promotional material associated with the premises could encourage the use of the premises by children or young people.

Reason for Policy:

The Licensing Authority will expect applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The location of the premises may be a significant factor if for example the premises are

located near a school, hostel or other sensitive premises. The applicant will have to demonstrate that there are suitable control measures to promote this objective.

Persons under 18 cannot be admitted to many types of gambling premises. The council will only consider applications for new gambling premises that are in close proximity to schools or main routes to schools after very careful consideration of the potential for exposing children to gambling. The Licensing Authority will consider measures to protect children on particular premises such as supervision of entrances; segregation of gambling from areas frequented by children and supervision of gaming machines in non-adult gambling specific premises.

Definition of a vulnerable person

Although there is no definition under the Act, the Commission states “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

APPENDIX TWO: PREMISES LICENCE

2.1. Adult Gaming Centres (AGC).

Adult Gaming Centres premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Licensing Authority.

See 'Gaming Machines by Premises Type' in the glossary for the entitlement of machines. Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of and entry to AGC's to minimise the opportunities for children to gain access.

The council will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures/ licence conditions may cover issues mentioned below.

- Proof of age scheme
- CCTV
- Entry control system
- Supervision of entrances/ machine areas
- Physical separation of areas
- Location of entry
- Notices/ signage
- Specific opening hours
- Self-barring schemes (individuals bar themselves from premises)
- Provision of information leaflets/ helpline numbers for organisation such as Gamcare.

2.2. Family Entertainment Centres (FEC).

FEC must be operated by a person or body having an operating licence from the Gambling Commission (not to be confused with Unlicensed Family Entertainment Centres). FEC will contain both category D machines on which they are allowed to play, and category C machines on which they are not. The council in considering applications for FEC premises licences 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 18s do not have access to the adult only gaming machines areas.

The council will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures/ licence conditions may cover issues mentioned below.

- CCTV
- Supervision of entrances/ machine areas
- Physical separation of areas for category C machines

- Location of entry
- Notices/ signage
- Specific opening hours
- Self-barring schemes (individuals bar themselves from premises)
- Provision of information leaflets/ helpline numbers for organisation such as Gamcare.
- Measures & training for dealing with children on the premises suspected of truanting

The council will have regard the Gambling Commissions Guidance on any conditions that apply to operating licences covering the way in which the area containing Category C machines should be delineated but may require further measures on physical separation and controls on entry. The council must apply the mandatory conditions but will consider whether to exclude any of the default conditions that may specified by regulation from the Secretary of State.

2.3. Tracks.

Under Section 353 of the Act, 'tracks' include premises where a race or other sporting event takes place or is intended to take place. These may be subject to one, or more than one premises licence, provided each licence relates to a specified area of the 'Track'. The commission Guidance identifies that operators of track betting premises will not necessarily hold an operators licence issued by the Commission and the Licensing Authority will have particular regard to the Gambling objectives.

The possibility of multiple licences at tracks is noted in the Commissions Guidance. The council will expect the applicant for a premises licence to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

In determining whether the application meets the criteria of the policies set out under Appendix two, consideration will be given to appropriate measures/ licensing conditions to address the matters listed below: *Please note that this list is not exhaustive, and only indicates examples of measures. The council will expect applicants to offer their own measures to meet the licensing objectives.*

- Proof of age scheme
- CCTV
- Entry control system
- Supervision of entrances/ machine areas
- Physical separation of areas
- Location of entry
- Notices/ signage
- Specific opening hours

- Self-barring schemes (individuals bar themselves from premises)
- Provision of information leaflets/ helpline numbers for organisation such as Gamcare

But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.”

“Special rules apply to applicants for a premises licence in relation to a track. Most importantly, as noted above, the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licences (sic) then authorises anyone upon the premises with an operating licence to offer betting facilities.”

“the secondary aspect to this rule is that each individual operator who comes onto the track on race days does not need to hold a premises licence. Instead, he will be covered by the umbrella of the premises licence held by the track operator.”

Licensing authorities have a power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Gambling Commission’s Guidance will be noted in that it states: “In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.”

This licensing authority also notes that, as per the Gambling Commission’s Guidance: The Commission will issue further guidance about how such premises should be delineated, both to make it clear to the public that they are entering a “betting office” and to keep out children and young persons.

“As the betting premises licence for a track could authorise the entire premises to be used for providing betting facilities, this could mean that no separate betting premises licence would be necessary for the self-contained premises. The effect of this approach would be that the track operator was responsible for premises licence issues relating to the self-contained

premises, rather than accountability resting with the betting operator providing facilities within it.”

“If the self-contained premises were the subject of a separate premises licence, that licence would have its own, directly imposed conditions. It would also allow the premises to use up to four gaming machines (in categories B2 to D)

“In the Commission’s view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises”

“Section 151 of the Act requires applicants for premises licences to submit plans for the premises. To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.”

2.4. Casinos.

Casinos and competitive bidding – This licensing authority is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a ‘competition’ under Schedule 9 of the Act. This licensing authority will run such a competition in line with any regulations issued under the Act by the Secretary of State.

Betting machines – This licensing authority is aware that, as explained in the Gambling Commission’s Guidance for local authorities states: “Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

Credit: This licensing authority has noted that the Gambling Commission has stated in its Guidance for Local Authorities that “section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the

arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines.

2.5. Bingo.

Bingo has its ordinary and natural meaning and includes any version of the game irrespective of what name it is described. A holder of a bingo premises licence will be able to offer in all its forms.

Children and young people are permitted in bingo premises, but may not participate in the bingo. If any category B or C machines are made available for use, these must be separated from areas where children and young people are allowed. In addition, young persons aged 16 and 17 may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. The licensing authority will not grant licenses unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.

2.6. Betting premises.

The Licensing authority must be satisfied that the primary use of the premises is to operate as a betting premise. The applicant will be expected to demonstrate that they can offer sufficient facilities for betting and, unless it does so, should not be making gaming machines available on the premises.

In determining whether the application meets the criteria of the policies set out under Appendix two, consideration will be given to appropriate measures/ licensing conditions to address the matters listed below: *Please note that this list is not exhaustive, and only indicates examples of measures. The council will expect applicants to offer their own measures to meet the licensing objectives.*

- Proof of age scheme
- CCTV
- Entry control system
- Supervision of entrances/ machine areas
- Physical separation of areas
- Location of entry
- Notices/ signage
- Specific opening hours
- Self-barring schemes (individuals bar themselves from premises)
- Provision of information leaflets/ helpline numbers for organisation such as Gamcare

The Council takes note of the Gambling Commission suggestion that licensing authorities will want to consider restricting the number and location of betting machines in respects of applications for betting premises licences. The council when considering the number/ nature/ circumstances of betting

machines an operator wants to offer will follow the Gambling Commissions Guidance and take into account size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

ATMs within a Betting Premise:

The Guidance issued by the Gambling Commission does not prevent the licensee from permitting the installation of cash dispensers on the premises, provided there is no commercial connection between both parties, and either makes any profit from the arrangement.

APPENDIX THREE: PERMITS

3.1. Unlicensed Family Entertainment Centre – Gaming machine permit. (Statement of Principles on permits- Schedule 10 Paragraph 7)

Where a premise does not hold a Premises Licence but wishes to provide gaming machines, a person may apply to the licensing authority for this permit.

The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit 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.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the “statement of principles” only applies to initial applications and not to renewals.

For initial applications, the Licensing Authority should have regard to the licensing objectives and any Gambling Commission guidance.

The Gambling Commission’s Guidance for local authority’s 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.

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. Relevant considerations to take into account would be the applicant’s suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.”

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the licensing objectives.

3.2. Alcohol Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

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 26.3 not the example in the Guidance)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

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.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

3.3. Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

The Act 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”.

The Gambling Commission Guidance states: “In their three year licensing policy statement, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request for the applicant, licensing authorities will want to give weight to child protection issues.

In making its decision on an application for this permit the licensing authority should have regard to the licensing objectives and to any Gambling Commission guidance.

It should be noted that there are conditions in the Act that the permit holder must comply with, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;

- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

3.4. Club Gaming and Club Machines Permits

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

Gambling Commission Guidance for local authorities 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 such regulations and these cover bridge and whist clubs. 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 Guidance also makes it clear that "Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

This Licensing Authority is aware 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; or
- (e) an objection has been lodged by the Commission or the police.

APPENDIX FOUR: NOTICES & TRAVELLING FAIRS

Temporary Use Notice (TUN).

Temporary Use Notice allows 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 gambling would include hotels, conference centres and sporting venues. The licensing authority can only grant a Temporary Use Notice to a person or a company holding a relevant operating licence.

Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.

The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the licensing authority will consider:

- the suitability of the premises;
- the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
- The CCTV coverage within the premises;
- The ability of the premises to provide sufficient staff and/ or licensed door supervisors for the notice period;
- Whether the premises or the holder of the operating licence have given the council any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Commission, the relevant code of practice or this Statement of Principles.

Occasional Use Notices:

The council has very little discretion in regards to Occasional Use Notices, to accept bets at 'Tracks', aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The council will, however, consider the definition of a 'track' and whether the applicant will need to demonstrate that they are in fact responsible for the administration of the 'track' or is an occupier, and therefore permitted to avail themselves of the notice.

It should be noted that the definition of 'track' in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place, this could include major halls, hostels and other venues. If notices are given for a single track which would permit betting to occur for more than 8 days per year, the council has an obligation to issue a counter notice preventing such a breach occurring.

Travelling Fairs:

The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on site that has been used for fairs for no more than 27 days per calendar year (regardless of whether it is the same or

different travelling fairs occupying the land). The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated. It will fall to the council to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing Authority will keep a record of any travelling fairs that take place within the Borough that offer gambling as an ancillary use to the fair. The authority will ensure that the 27 say statutory maximum for the land being used is not breached. The Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

APPENDIX FIVE: APPLICATION & REVIEW.

5.1. Decision making – general.

Premises Licences will be subject to the permissions/restrictions set-out in the Act and Regulations, as well as specific mandatory and default conditions which may be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

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

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

As regards licence conditions, the Gambling Commission Guidance for local authorities states that "Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions:

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

The Commission also adds that "The licensing authority should take decisions on individual conditions on a case by case basis, although this will be against the background of any general policy set out in this guidance or their own licensing policy statement."

There are also 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 and
- conditions in relation to stakes, fees, winning or prizes

The Gambling Commission has also emphasised to local authorities, that 'demand' cannot be a factor in decisions.

5.2. Conditions

The majority of premises licence will have mandatory and/or default conditions attached to the licence. These conditions are detailed in the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

The licensing authority can attach conditions to any licence if it believes that the imposition of conditions will ensure that the premise promotes the licensing objectives. Any conditions attached to a licence 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;
- Related to the scale and type of premises; and
- Reasonable in all respects

Certain matters set out in the Act may not be the subject of conditions. These are:

- Conditions which make it impossible to comply with an operating licence.
- Conditions as to gaming machines that contradict the provisions in the Act.
- Conditions making activities, premises or parts of them operate as a membership club, and
- Conditions on fees, winnings, stakes or prizes.

The council will expect the applicant to proposed how the licensing objectives can be met effectively though the use of conditions. The licensing authority will 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 separate from the remainder of the premises by a physical barrier which is effective to prevent any views of machines in category C or above and any access to them 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; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the areas is prohibited to persons under 18.

5.3. Provisional Statements.

This licensing authority notes the Guidance for the Gambling Commission which states:

- “An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The intention behind part 8 of the Act is the reference to “the premises” is to premises in which gambling may now take place. Thus a licence to use premises for gambling should only be issued in relation to premises that are ready to be used for gambling. This is why the Act allows an operator to apply for a provisional statement if the building is not yet complete, needs alteration, or he does not yet have a right to occupy it”
- “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. For example, the fact that a wall needed painting would not stop a full assessment of the premises as gambling premises, and in such circumstances it would probably be wrong to insist that the applicant applied for a provisional statement rather than a premises licence.”
- “Once an operator has completed a building, the licensing authority will be able to consider a premises licence application for it.”
- “Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, Category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator’s proposals and the legal requirements.” (in relation to Provisional Licences)

In terms of representations about premises licence applications, following the grant of a provisional statement, the Gambling Commission’s Guidance states:

“If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises. No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances.” In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the authority’s opinion reflect a change in the operator’s circumstances.
- (c) where the premises has not been constructed

The licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.”

5.4. Duplication.

As stated in the section above on Enforcement, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

5.5. Reviews.

Interested parties or responsible authorities can make requests for a review of a premises licence; 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 following matters:

- it is in accordance with any relevant code of practice issued by the Gambling Commission
- it is in accordance with any relevant guidance issued by the Gambling Commission
- it is reasonably consistent with the licensing objectives and
- it is in accordance with the authority’s statement of licensing policy

as well as consideration as to whether the request is frivolous, vexatious, or will certainly not cause this authority to wish 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 licence on the basis of any reason that it thinks is appropriate.

APPENDIX SIX: Functions.

Function	Who deals with it
Issue and renewal of Operating Licences	Gambling Commission
Review Operating Licences	Gambling Commission
Issue Personal Licences	Gambling Commission
Issue Codes of Practice	Gambling Commission
Issue Guidance to Licensing Authorities	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines.	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal
Responsible for the licensing of premises where gambling activities are to take place, by issuing Premises Licences	Licensing Authority
Issue Provisional Statements	Licensing Authority
Regulate Members Clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and or Club Machine Permits	Licensing Authority
Issue Club Machine Permits to Commercial Clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required	Licensing Authority
Register small society lotteries below prescribed threshold	Licensing Authority
Issue Prize Gaming Permits	Licensing Authority
Receive and Endorse Temporary Use Notices	Licensing Authority
Receive Occasional Use Notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licenses issued (see 2.2: Information Exchange)	Licensing Authority
Maintain registers of the permits and licenses that are issued under these functions	Licensing Authority

APPENDIX SEVEN: AGREED DELEGATIONS.

To Full Council	To Sub Committee	To an Officer
<ul style="list-style-type: none"> * Final approval of the three year policy. * Policy not to permit casinos. 	<ul style="list-style-type: none"> * Application for a premises licence where representations have been made and not withdrawn * Application to vary a premises licence where representations have been made and not withdrawn * Application to transfer a licence following representations for the Commission or responsible authority * Application for a provisional statement where representations have been made and not withdrawn. * Review of a premises licence. * Application for club gaming machine permits or club machine permits where made and not withdrawn * Cancellation of a club gaming machine permit or club machine permit. * Application for more than 4 gaming machine permits in a licensed premises. * The giving of a counter notice for a temporary use notice * Fee setting (other than annual increases) 	<ul style="list-style-type: none"> * Application for a premises licence where no representations have been received or received and withdrawn * Application to vary a premises licence where no representations have been received. or received and withdrawn * Application to transfer a licence where no representations have been received or received and withdrawn * Application for a provisional statement where no representations have been received. or received and withdrawn * Application for club gaming machine permits where no representations have been received or received and withdrawn. * Application for up to 4 gaming machine permits in a licensed premises. * Cancellation of gaming machine permits in relation to a licensed premises. * Consideration of a Temporary Use Notice.(other than the giving of a counter notice) * Registration of small lotteries/charities. * Where appropriate to instruct the Borough Solicitor to prosecute persons for non-compliance.

CONTACTS

Information on the various aspects of the licensing process and policy can be obtained from the following bodies:

Licensing Officer
Licensing Department
Swale Borough Council
East Street
Sittingbourne
Kent ME10 3HT
Tel: 01795 417634

Police Licensing Officer
North Division
Medway Police Station
Purser Way
Gillingham
Kent ME7 1NE
Tel: 01634 792733

Maidstone Group Fire Safety
Maidstone Fire Station
Loose Road
Maidstone
Kent ME15 9QB
Tel: 01622 774126

Environmental Pollution Team
Swale Borough Council
East Street
Sittingbourne
Kent ME10 3HT
Tel: 01795 417320

Planning Services
Swale Borough Council
East Street
Sittingbourne
Kent ME10 3HT
Tel: 01795 417304

HM Revenue & Customs National
Registration Unit
Portcullis House
21 India Street
Glasgow G2 4PZ

Child Protection Agency
Social Services Directorate
Kent County Council
Brenchley House
123-135 Week Street
Maidstone, Kent

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6666