



STATEMENT OF PRINCIPLES

Gambling Act 2005

This Statement of Licensing Principles was approved by The Royal Borough of Kingston upon Thames (The Council) on **24th November 2009**. It is made in accordance with its responsibilities and powers under the Gambling Act 2005, and takes into account guidance issued by the Gambling Commission.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3rd Edition, published May 2009.

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PREFACE

Background

The Royal Borough of Kingston upon Thames lies to the south west of London with a population of around 155,000. It plays a major role as a commercial and employment centre serving a wider catchment of SW London and NE Surrey, particularly through Kingston town centre's role as a major shopping centre and provider of evening and night time entertainment. It is bordered by the River Thames, the County of Surrey and the London Boroughs of Richmond, Sutton, Merton and Wandsworth. The borough has a long and rich history and includes the suburban areas of Surbiton, New Malden, Old Malden, Coombe, Tolworth, Chessington and Worcester Park.

In addition to its residential population, the borough attracts an estimated quarter of a million shoppers every week. Kingston town centre, also has a range of cultural and entertainment attractions. The town centre is a major higher and further education centre with Kingston University and Kingston College. The University employs some 1800 academic professional and support staff and has around 17,000 students. The majority of full time students reside within the local area and are increasingly working as flexible part time employees in retail and service businesses in the town centre.

The town centre has a vibrant evening and late night economy with a total capacity of over 15,000, and on average drawing up to 10,000 visitors from a wide catchment area.

Outside of the town centre the centres of New Malden, Surbiton, and Chessington have significant retail and commercial areas. The remainder of the borough comprises predominantly suburban – housing with localised shopping areas.

There are no racecourses or dog tracks sited in the borough.

Should you have any comments regarding this statement of principles please send them via e-mail or letter to:

The Licensing Team
Environmental Health and Trading Standards,
Guildhall,
High Street,
Kingston upon Thames
GU1 1EU.

Email - licensing@rbk.kingston.gov.uk
Telephone – 020 8547 5536

PART A.

1. Legal Responsibility

The Licensing Authority has a legal duty under the Gambling Act 2005 to publish a statement at least every three years of the principles which they propose to apply when exercising their statutory functions. The first statement of principles [entitled the "Statement of Licensing Policy"], was published in 2006 following consultation and Council approval. The 2006 statement has been reviewed and the 2009 Statement of Principles has been subject to further statutory consultation.

This policy recognises that the Council has a legal obligation to work to eliminate unlawful discrimination and promote equality of opportunity on the grounds of age, disability, gender, race, religion or beliefs and sexual orientation. The provisions of the Gambling Act 2005 and this Policy will therefore be operated accordingly.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council has had particular regard to the following relevant provisions of the European Convention on Human Rights:-

- Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for his home and private and family life
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.

2. Declaration

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

This statement was approved at a meeting of the Full Council on 24th November 2009 and was published via our website on 20th January 2010. Copies have been placed in the Borough's public libraries as well as being available in the Guildhall.

This statement of licensing principles does not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. The Licensing Objectives

In exercising functions under the Gambling Act 2005, the Licensing Authority shall have regard to the licensing objectives as set out in section 1 of the Act.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In addition when making decisions about premises licences and temporary use notices the Licensing Authority will, in accordance with Section 153, aim to permit the use of the premises and discharge its legal duties in so far as it is:

- In accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- In a manner reasonably consistent with the licensing objectives and in accordance with the authority's statement of principles herein.

4. Consultation Process

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

The Licensing Authority has consulted the following list of stakeholders;

- The Metropolitan Police Service, Kingston Division
- The Kingston Community and Police Consultative Group
- The London Fire and Emergency Planning Authority
- Residents Associations
- Representatives of bingo halls, betting shops and amusement arcades
- Representatives of local businesses, Chambers of Commerce and Trade Associations
- Kingston Town Centre Management Board
- Crime and Disorder Reduction Panel
- Director of Learning and Children's Services
- Director of Community Services

- Director of Environmental Services [Planning Authority]
- Faith Communities
- Kingston Primary Care Trust
- South West London & St Georges Mental Health Trust
- Deputy Lieutenant for Kingston
- Game care

The consultation took place between 17th July 2009 and 5th October 2009. The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Team, Environmental Health and Trading Standards, The Guildhall, High Street, Kingston GU1 1EU.

5. Responsible Authorities

The licensing authority is required 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 designated body must:

- a) Be responsible for an area covering the whole of the licensing authority's area and,
- b) Be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the Gambling Commission's Guidance to Licensing Authorities the Directorate Head of Learning and Children's Services has been designated for this purpose. The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.kingston.gov.uk:

6. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"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

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

The licensing authority is required to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

These principles are:

- Each case will be decided upon its merits.
- This authority will not apply a rigid rule to its decision making.
- It will take account of the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities.
- All decisions on premises licences and temporary use notices will be made "in accordance" with Gambling Commission Guidance Section 153.
- Having "business interests" will, in accordance with the Gambling Commission's Guidance be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can be persons who are democratically elected such as Councillors, Member of the GLA, MEPs and MPs. No specific evidence of being asked to represent an interested person will be required as long as the elected member represents the ward likely to be affected. For other representatives however, the licensing authority will require written evidence that a person/body (e.g. an advocate / relative) representing someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities has been authorised so to do. A letter from the persons/group, requesting the representation is sufficient.

7. Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

8. Enforcement

The Licensing Authority is required by regulation under the Gambling Act 2005 to state the principles it will apply in exercising functions under Part 15 of the Act in respect to the inspection of premises; and its 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 in so far as regulators should only intervene when necessary and remedies should be appropriate to the risk posed and costs identified.
- Accountable in so far as regulators must be able to justify decisions and be subject to public scrutiny.

- Consistent in so far as rules and standards must be joined up and implemented fairly.
- Transparent in so far as regulation should be open, simple and user friendly.
- Targeted in so far as regulation should be focused on identified problems to minimise side effects.
- The Licensing Authority will endeavour whenever possible to avoid duplication with other regulatory regimes.

The Licensing Authority's main enforcement and compliance role under the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission is the enforcement authority for the issue of operating and personal licences and for addressing concerns about manufacture, supply or repair of gaming machines.

The Licensing Authority will also note and action developments in relation to the work of the Better Regulation Executive in so far as the regulatory functions of local authorities are concerned.

9. Licensing Authority functions

The policy relates to all those activities falling within the scope of the Gambling Act 2005 [The Act] for which the Council is the Licensing Authority and which includes the following activities:-

- Casinos
- Bingo
- Betting premises
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Gaming Machines
- Gaming Permits
- Prize Gaming
- Temporary and Occasional Use Notices
- Small Society Lotteries

The Licensing Authorities is required under the Gambling Act to:

- a) Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- b) Issue Provisional Statements
- c) Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- d) Issue Club Machine Permits to Commercial Clubs
- e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres

- f) Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- g) Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- h) Register small society lotteries below prescribed thresholds
- i) Issue Prize Gaming Permits
- j) Receive and Endorse Temporary Use Notices
- k) Receive Occasional Use Notices
- l) Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- m) Maintain registers of the permits and licences that are issued under these functions

The Licensing Authorities is not responsible for the licensing of remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. The Licensing Authorities is able to exclude default conditions and also attach others, where it is believed to be appropriate. Residents living within fifty metres of the application premises will be notified in writing of any new or substantial variation application being submitted.

a) Decision-making

The Licensing Authority recognises the need to implement its licensing responsibilities as quickly, efficiently and cost effectively as possible. To that end it will operate through the Council Licensing Committee and Sub-Committees [drawn from the Members of the Licensing Committee] and delegation to officers.

Applications will be dealt with by Sub-Committees and officers in accordance with Appendix 'A'; however; applications delegated for action by officers may be referred to a Sub-Committee where there are exceptional reasons for that to be done.

A Licensing Sub-Committee, drawn from members of the Licensing Committee, will normally sit in public to hear applications where representations have been received from interested parties and responsible authorities.

This Licensing Authority, in making decisions about premises licences, should aim to permit the use of premises for gambling in so far as it determines appropriate:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- In a manner which is consistent with the licensing objectives; and is
- In accordance with the Council's Statement of Principles.

The Licensing Authority accepts the Gambling Commission's Guidance which states that "Moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12). The Licensing Authority further accepts that unmet demand is not a criterion for a licensing authority.

b) Definition of "premises" including "split premises"

In the Gambling Act, "premises" is defined as including "any place". Section 152 prevents more than one premises licence applying to any place however 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 the Licensing Authority will focus particular attention to applications where there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed and are achievable. The Licensing Authority will nevertheless be cognisant of the current guidance from the Gambling Commission in regard to these types of applications.

Part 7 of the Gambling Commission's Guidance contains further information on this issue, which the Licensing Authority will also take into account in its decision-making.

c) Premises "ready for gambling"

A licence to use premises for gambling will only be issued when the licensing authority can be satisfied that the premises is 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, the Licensing Authority will determine applications on their merits, applying a two stage consideration process:-

1. Whether the premises ought to be permitted to be used for gambling
2. 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.

d) Location

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. The Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

e) Planning

In accordance with Section 210 of the 2005 Gambling Act and Gambling Commission Guidance, the Licensing Authority, when dealing with a premises licence application, will not take into account whether those buildings have or comply with the necessary planning or building consents. These matters are dealt with under relevant planning control and building regulation powers, and cannot form part of the consideration for the premises licence. 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.

f) **Duplication with other regulatory regimes**

The Licensing Authority shall seek to avoid any duplication with other statutory regulatory regimes where possible although it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to other regulatory restrictions, should such a situation arise. Regulatory regimes associated with fire safety, health and safety, planning and building control cannot form part of the consideration for the premises licence.

g) **Licensing objectives**

Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's Guidance and make the following statements of principles.

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

The Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether imposition of conditions may be appropriate such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

II. **Ensuring that gambling is conducted in a fair and open way**

The Licensing Authority notes that the Gambling Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

III. **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

The Licensing Authority notes the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances, machines and segregation of areas

etc. The licensing authority is also aware of the Gambling Commission Codes of Practice in relation to this licensing objective.

Vulnerable persons

The Gambling Commission does not seek to offer a definition but states that for regulatory purposes it will 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.” The Licensing Authority will consider this licensing objective on a case by case basis.

h) 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 being fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need. Specific comments made in this regard for some of the licence types below. The 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. All conditions will be in accordance with the Gambling Commission's Guidance.

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

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

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The 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.

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); and
- Conditions in relation to stakes, fees, winning or prizes.

i) Door Supervisors

Where the Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young person's) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on a premises licence to this effect.

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

2. Adult Gaming Centres

The Licensing Authority will have specific 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 Game Care.

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

3. Family Entertainment Centres (Licensed)

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

This licensing authority will refer to the Gambling Commission's website for any recommended conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will also consider any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

The Council has passed a "no casino" resolution under Section 166 of the Gambling Act 2005 to take effect from 31 January 2007. The reasons for passing this resolution were:

- None of the consultation submissions supported casinos but some were against
- Casinos have the potential to cause harm
- Casinos do not form part of Kingston's economic strategy

Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

5. Bingo premises

This Licensing Authority notes Gambling Commission's Guidance and

Will satisfy itself that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Is cognisant of the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Is aware that Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

6. Betting premises- Betting machines

The Licensing Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Travelling Fairs

The Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair. It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

8. Provisional Statements

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

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

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

The process for considering an application for a provisional statement will be the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.

The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or
- Where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

9. 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; and
- 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; and
- d) Revoke the premises licence.

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

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 Gambling Commission
- Any person who made representations
- The Chief Officer of Police or Chief Constable; and
- Her Majesty's Commissioners for Revenue and Customs

PART C.

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre [FEC] 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. The 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;

- 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.

The Licensing Authority will also expect 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 Gambling Act);
- That staff are trained to have a full understanding of the maximum stakes and prizes.
- That the premises will be wholly or mainly used for making gaming machines available for use.

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 that the Chief Officer of Police has been consulted on the application.

2. (Alcohol) Licensed premises gaming machine permits

Automatic entitlement: 2 machines

The Gambling Act automatically permits premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of

practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- The premises are mainly used for gaming; or an offence under the Gambling Act has been committed on the premises.

Permit: 3 or more machines

A premises having more than 2 machines requires a permit. The Licensing Authority will consider an application based upon the licensing objectives and any guidance issued by the Gambling Commission and “such matters as they think relevant.”

The 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 that may deem to satisfy the Licensing Authority 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.
- In relation to protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Game Care.

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.

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.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits

The Licensing Authority will require applicants 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 are in place that outline the steps to be taken to protect children from harm.

In making its decision on an application for a permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but will have regard to any Gambling Commission guidance. It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with, but for which the Licensing Authority cannot attach conditions.

4. Club Gaming and Club Machines Permits

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

Gambling Commission Guidance states: "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 Licensing Authorities will only refuse an application on the grounds that:

- a) The applicant does not fulfil the requirements for a members' or commercial club 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 Gambling Commission or the Police.

The grounds on which the Licensing Authority may refuse an application made under the "Fast track" procedure are:

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

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

5. Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to guidance, would include hotels, conference centres and sporting venues. The licensing authority will 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 Licensing Authority can be expected 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.

6. Occasional Use Notices

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will however consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice

Part – D

Lotteries

The Licensing Authority is responsible for the registration of those small scale lotteries whose principal office is located within the borough.

Such lotteries can only be promoted for charitable purposes, participation in or supporting sport, or cultural activities or for other non-commercial purposes other than for private gain.

Applications may be refused if:-

- [i] The applicant is not a non-commercial society;
- [ii] A person connected with the lottery promotion has been convicted of a relevant offence;
- [iii] False or misleading information is provided.

In considering whether to refuse an application or revoke a registration the Licensing Authority will first give an opportunity to the society to make representations.

Where appropriate lotteries will be subject to investigations, particularly in regard to the following:-

- [i] Making a late return or absence of returns;
- [ii] Report of sales of tickets to children;
- [iii] Report of lotteries being held without registration;
- [iv] Misappropriation of funds.

GLOSSARY – LICENCES, PERMITS AND NOTICES

Premises licence

Authorises the provision of facilities for gambling on premises for casinos, bingo, betting including tracks, adult gaming centres and family entertainment centres. The premises licence may also include details of conditions. These licenses will be valid for the life of the premises, subject to any review that may be triggered and lapse in certain circumstances, with no annual renewal required, although there is an annual fee. These licences are transferable to someone else holding a valid operating licence.

Operating licence

Authorises individuals or companies to provide facilities for certain types of remote or non remote gambling. These licences are issued by the Gambling Commission and generally cover the principal commercial forms of gambling operation. A single licence cannot authorise both remote and non remote activities; separate operating licences are needed for this. Conditions may be attached.

Personal licence

Except for small scale operations, each operating licence, at least one person who holds a specified management office must hold a personal licence. These licences are issued by the Gambling Commission with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.

Unlicensed family entertainment centre gaming machine permits

These allow the use of category 'D' gaming machines in these premises to a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.

Club gaming permits and club machine permits

Club gaming permits allow members' clubs and miners' welfare institutes [but not a commercial club] to provide gaming machines and equal chance gaming and games of chance. These clubs and commercial clubs may apply for a club machine permit which allows the holder to have up to 3 gaming machines of category 'B', 'C' or 'D'.

Alcohol licensed premises gaming machine permits

The Licensing Authority can issue such permits for any number of category 'C' or 'D' machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category 'C' or 'D' for use in alcohol licensed premises.

Prize gaming permits

This permit allows the provision of facilities for gaming with prizes on specified premises. "Prize gaming" refers to gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

Temporary use notices

These notices authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.

Occasional use notices

Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dog track and temporary tracks for races or sporting events.

Appendix A : Table of delegations of licensing functions

MATTER TO BE DEALT WITH	FULL COUNCIL	COMMITTEE	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X			
Policy not to permit casinos	X			
Fee Setting – when appropriate		X		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission.
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence			X	
Application for a club gaming/club machine permits			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Applications for other permits, in particular gaming machines in alcohol premises, and prize gaming			X	X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	