

# AGENDA

## LICENSING ACT 2003 COMMITTEE MEETING



Date: Monday 30 July 2012  
Time: 6.30 pm  
Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillors Mrs Gibson, Mrs Hinder (Chairman),  
Naghi, Mrs Parvin, Yates, B Mortimer,  
Mrs Joy, Parvin, Barned, Mrs Grigg  
and Mrs Gooch

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying

**Continued Over/:**

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**Issued on 19 July 2012**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact JANET BARNES on 01622 602242**. To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Minutes of the Meeting held on 21 June 2012 1 - 3
8. Report of the Head of Democratic Services - Gambling Act 2005 - Draft Statement of Licensing Principles 4 - 43

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON THURSDAY 21 JUNE 2012**

**Present:** Councillor Mrs Joy (Chairman), and  
Councillors Barned, Mrs Gibson, Mrs Gooch,  
Mrs Grigg, Mrs Hinder, B Mortimer, Naghi, Parvin,  
Mrs Parvin and Yates

**Also Present:** Councillor Cuming

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

3. NOTIFICATION OF VISITING MEMBERS

Councillor Cuming was in attendance.

4. ELECTION OF CHAIRMAN AND VICE CHAIRMAN

RESOLVED: That Councillors Mrs Hinder and Mrs Joy alternate the Chairmanship and Vice Chairmanship for the Municipal Year 2012/13 and that Mrs Joy be the Chairman for this first meeting.

5. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

6. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

7. EXEMPT ITEMS

RESOLVED: That the items on the Agenda be taken in public as proposed.

8. MINUTES

RESOLVED: That the Minutes of the Meeting held on 22 March 2012 be approved as a correct record and signed.

9. APPOINTMENT OF POLITICAL GROUP SPOKESPERSONS

RESOLVED: That the Political Group Spokespersons be appointed as follows:-

Conservative – Councillor Parvin  
Liberal Democrat – Councillor Mrs Joy  
Independent – Councillor Mrs Gooch

10. LICENSING ACT 2003 SUB COMMITTEE MEETINGS

The Committee considered the report of the Head of Democratic Services regarding the Licensing Act 2003 Sub Committee appointment process.

RESOLVED:

1. That the current system for appointing the Sub Committee, as detailed in the report of the Head of Democratic Services, be retained.
2. That the current process of appointing the Chairman of the Sub Committee, by agreement of the majority of the 3 members present before the meeting starts, be retained.

11. LICENSING PARTNERSHIP ORAL UPDATE

The Interim Licensing Partnership Manager updated the Committee on the progress of the Licensing Partnership.

Income for the financial year 2011/12 was £25,000 over budget for Maidstone and £93,000 across the partnership.

Application levels – Temporary Event Notices (“TENs”) (which must be turned around within 3 working days) were 144 in April and 212 in May across the partnership. There have been 107 received so far for June. In April, Personal Licences – 20, Premises Licences – 6, 1 variation, 30 variations to DPS and 52 taxi applications.

The Committee were informed that due to the high volume, the partnership is struggling to meet the performance indicators, however, a member of staff in Maidstone has increased their hours by 17 per week to help the administrative team in Sevenoaks and a further new member of staff (20 hrs per week) is due to start in Sevenoaks to help with the backlog.

The Interim Licensing Partnership Manager informed the Committee that she will attend future meetings to report on any issues and the progress on the performance indicators. The whole of the Licensing Partnership officer team will be meeting in July.

RESOLVED: That the report be noted.

12. DURATION OF MEETING

7.36 p.m. to 7.50 p.m.

# Agenda Item 8

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 COMMITTEE**

**30 JULY 2012**

#### **REPORT OF THE HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Lorraine Neale**

#### **1. GAMBLING ACT 2005 – DRAFT STATEMENT OF LICENSING PRINCIPLES**

##### 1.1 Issue for Decision

1.1.1 To consider the three yearly review of the Statement of Gambling Principles and to agree a revised draft for consultation purposes.

##### 1.2 Recommendation of the Head of Democratic Services

1.2.1 That the Gambling Act 2005 draft Statement of Licensing Principles attached to this report is agreed for consultation purposes.

##### 1.3 Reasons for Recommendation

1.3.1 The Committee will recall that the Gambling Act 2005 requires the Council to review from time to time and agree any changes to its Statement of Licensing Principles at least every 3 years. The submission of this report is in line with the provisions of the Act, the current Statement requiring replacement in January 2013. The Statement has worked well for the past 3 years and the only changes recommended are those set out in a guidance issued by the Gambling Commission since May 2009. There is new draft Guidance (Guidance to Licensing Authorities 4<sup>th</sup> Edition) currently being consulted upon by the Gambling Commission but this will not close until 6, July 2012, and a target publication date set for September 2012. The changes in the new Guidance are reflected in our Statement of Licensing Principles. These changes are shown as track changes in the proposed draft (appendix A)

1.3.2 It is for the Committee at this meeting to agree a draft Statement of Licensing Principles for consultation purposes. The next stage will be a 12 week consultation period which will commence on 1 August 2012? and finish on 24 October 2012. At the meeting on 15 November 2012 the committee will then consider any comments/observations made and agree a statement for submission to the council meeting on 12 December

2012. This will enable the Statement to be published by the required date to commence on 31, January 2013. The policy adopted by Council will then be in place, subject to further review, until 30 January 2016.

1.3.3 The consultees on the statement will be:-

The Chief Officer of Police

Environmental Health Department

Planning Department

Gambling Commission

Maidstone & Malling Police

Kent Fire & Rescue Service

Kent Social Services

HM Revenue and Customs

Environment Agency

British Waterways Board

Secretary of State

All Maidstone Borough Councillors

All Parish Councils

Town Centre Management

All premises currently licensed to sell or supply alcohol

All premises currently licensed for regulated entertainment

All premises currently licensed for late night refreshments

All currently licensed gambling premises

Youth/community groups/ CAB/ problem gambling organizations

Any other prescribed in regulations by Secretary of State

1.4 Alternative Action and why not Recommended

1.4.1 The Committee could decide not to review the current Statement but to do so fail to comply with the Council's duty under section 349 of the Gambling Act 2005.

1.5 Impact on Corporate Objectives

1.5.1 The Statement of Licensing Principles sets out clearly the Council's position in respect of gambling within the Borough and seeks to provide customer excellence in respect of this service.

1.6 Risk Management

1.6.1 If the Committee does not take action to review and consult on the current Statement the Council would not be complying with legislation and there would be a risk of challenge. Agreement of a draft for consultation with a timetable for final agreement and publication is necessary to deal with that risk.

1.7 Other Implications

- 1. Financial
- 2. Staffing
- 3. Legal
- 4. Equality Impact Needs Assessment
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

X

1.7.3 Legal considerations are as set out in the report.

1.8 Background Documents

- Appendix A Current Gambling Statement of Licensing Principles
- Appendix B Gambling Commission Guidance



**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

.....



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**Maidstone Borough Council**

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**'Gambling Act 2005  
Statement of  
Licensing Principles'**

"Prepared in Accordance with Legislation and  
Gambling Commission Guidance"

**January ~~2010~~ 2013**

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~~For the period ending July 2012~~

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I have made the amendments that are clear to me but some of your other comments have confused me, if I have missed anything, can you let me know

## 1. The Licensing Objectives

In exercising their functions under the Gambling Act 2005( the Act), Licensing Authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

This Licensing Authority is aware that, as per Section 153, in exercising its functions under Part 8 of the Act should aim to permit the use of premises for gambling in so far as it thinks 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;
- reasonably consistent with the licensing objectives and;
- in accordance with the Authority's Statement of Licensing Policy

## 2. Introduction

Maidstone Borough Council is situated in the County of Kent, which contains 12 Borough and District Councils and 1 Unitary Authority in total. Each Council is represented on the Kent & Medway Regulatory Licensing Steering Group (K&MRLStGp) whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

This policy has been formulated in discussion with the Kent & Medway Regulatory Licensing Steering Group.

The Council area has a population of 140,000 (2001 Census) making it the second largest in the County in terms of population. In terms of area it is the largest, covering 97,000 acres. The Council area is mainly rural surrounding the urban area of Maidstone. The Council is parished and the parish boundaries are shown on the map below.

**MAIDSTONE BOROUGH COUNCIL  
- PARISHES**



Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles that they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement can also be reviewed from "time to time" and the amended parts re-consulted upon. The statement must then be re-published.

In determining its policy the Licensing Authority must have regard to Gambling Commission guidance and will give appropriate weight to the views of those who respond to its consultation.

Maidstone Borough Council consulted widely on this Policy Statement before finalising and publishing. A list of the persons we consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties be 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 list of persons consulted when preparing this Policy Statement is deliberately wide. The List of persons this Authority consulted is attached at Appendix 3.

Our consultation took place between ~~31 August 2009~~<sup>xx xxxxx</sup>~~01, August 2012~~ and ~~15 November 2009~~<sup>24, October</sup>~~xx xxxxx~~ ~~2012~~ and we followed the Revised Code of Practice (which came into effect in July 2008) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

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In determining its Statement of Principles the Licensing Authority must have regard to the Gambling Commission's guidance for local authorities, and having regard to that guidance will give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account included:

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- who is making the representations (what is their expertise or interest);
- relevance of the factors to the Licensing Objectives
- how many other people have expressed the same or similar views;
- how far the representations relate to matters that the Licensing Authority should -be including in it's Statement of Principles.

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The full list of comments made and the consideration by the Council of those comments is available by request to Neil Harris – Head of Democratic Services Manager at: Licensing Department, Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent, ME15 6JQ.

- Email: [neilharris@maidstone.gov.uk](mailto:neilharris@maidstone.gov.uk)
- Tel: 01622 602020
- Council's website at: [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

The policy was approved at a meeting of the Full Council on ~~16 December 2009~~<sup>xx xxx</sup> ~~2012~~ and was published via our website ~~31 December 2009~~<sup>xx xxxxx</sup> ~~2012~~. Copies have been placed in the public libraries of the area as well as being available in the principal Council Offices.

Should you have any comments as regards this Policy Statement please send them via e-mail or letter to the following contact:

Name: Neil Harris  
Head of Democratic Services Manager  
Address: Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone Kent ME15 6JQ  
E-mail: [neilharris@maidstone.gov.uk](mailto:neilharris@maidstone.gov.uk)

It should be noted that this Policy Statement will 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. Declaration

In producing the final Statement of Licensing Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the Policy Statement.

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### 4. Casinos

#### Proposal for a Casino

This Licensing Authority submitted a proposal for a Premises Licence for a small casino, to the Independent Casinos Advisory Panel. Details regarding this proposal ~~can be found at [www.maidstone.gov.uk](http://www.maidstone.gov.uk) or~~ are available via request to ~~Mrs Alison Broom~~ [Zena Cooke](mailto:Zena.Cooke@maidstone.gov.uk), Director of ~~Regeneration and Communities~~ [Prosperity and Regeneration](mailto:Zena.Cooke@maidstone.gov.uk), on 01622 ~~602019602364~~. The submission was not shortlisted for further consideration by the Panel.

#### No Casinos resolution

This Licensing Authority has ~~not~~ **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. Any such decision will be made by the Full Council.

#### 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 (ie 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 Gambling Act 2005. This Licensing Authority will run such a competition in line with any regulations/codes of practice issued under the Gambling Act 2005.

#### Licence Considerations/Conditions

This Licensing Authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory



conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

### **Betting Machines**

This Licensing Authority will, as per the Gambling Commission's Guidance, 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.

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## **5. The licensable activities**

Some matters in the Act are determined by the Gambling Commission and some by Maidstone Council as Licensing Authority. The table below sets out those matters determined by the Council. The Gambling Commission functions are set out on page 341.

<b>Function</b>	<b>Who deals with it</b>
The licensing of premises where gambling activities are to take place by issuing <i>Premises Licences</i> .	Licensing Authority
Issue <i>Provisional Statements</i> .	Licensing Authority
Regulate <i>Members' Clubs</i> and <i>Miners' Welfare Institutes</i> who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.	Licensing Authority
Issue <i>Club Machine Permits to Commercial Clubs</i> .	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at <i>unlicensed Family Entertainment Centres</i> .	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.	Licensing Authority
Issue <i>Licensed Premises Gaming Machine Permits</i> for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003,	Licensing Authority

where there are more than two machines.	
Register <i>small society lotteries</i> below prescribed thresholds.	Licensing Authority
Issue <i>Prize Gaming Permits</i> .	Licensing Authority
Receive and Endorse <i>Temporary Use Notices</i> .	Licensing Authority
Receive <i>Occasional Use Notices</i> .	Licensing Authority
Provide information to the Gambling Commission regarding details of Licences issued (see Section 8. on Exchange of Information).	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions.	Licensing Authority

Please Note:

[The Gambling Commission functions are listed on page 343.](#)

The Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via Operating Licences.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

## 6. 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 Authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group

In accordance with the Gambling Commission's draft Guidance for Local Authorities this Authority designates the following for this purpose:

Kent County Council [Social Services Families and Social Care](#)  
[Brenchley-Invicta?](#) House

County Hall  
Maidstone  
Kent ME14 1RF

The contact details of all the Responsible Bodies under the Gambling Act 2005 are listed at Appendix 4.

## 7. 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:

"For the purposes of this Part a person is an Interested Party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the Licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b)"

The Licensing Authority is required by regulations 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. 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 (paragraphs 8.11 to 8.189):

- 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);
- 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 to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- the 'catchment' area of the premises (ie how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

Guidance also states that moral objections to gambling are not a valid reason to reject applications for Premises Licences. This is because such objections do not relate to the licensing objectives (Guidance to Licensing Authorities Para 5. ~~27-28 May 2009~~ July 2012 ~~3<sup>rd</sup>~~ 4<sup>th</sup> Edition Guidance).

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The Gambling Commission has recommended that the Licensing Authority state that interested parties include trade associations and trade unions, and residents and tenants' associations (paragraph 8.17). 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 Gambling Act 2005 ie lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested Parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be Interested Parties. Other than these however, this Authority will generally require written evidence that a person/body (eg an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

Care should be taken when approaching Councillors that they are not part of the Licensing Committee dealing with the Licence application as this may put them in a difficult position by giving them an interest and it may even disable them from sitting on the Committee. If there are any doubts then please contact Mr Neil Harris on 01622 602020 and email [neilharris@maidstone.gov.uk](mailto:neilharris@maidstone.gov.uk).

## 8. Exchange of Information

It should be noted that there are sections of the Gambling Commission's Guidance for local authorities which relate to Information Exchange. The sections are:

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- "As applicants for premises licences (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant. If during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay" (5.10)
- "Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating

licences. (Though if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.)” (5.13)

- “If it comes to the attention of licensing authorities that Alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes and that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission.” (18.18)

~~Licensing Authorities are required to include in their Policy Statement 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 to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.~~

~~Should any protocols be established as regards information exchange with other bodies then they will be made available.~~

Full details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their full details will be disclosed.

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## 9. 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 Gambling Act 2005 and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues. A copy of this can be requested from Neil Harris, Head of Democratic Services Manager, 01622 602020 or by email [neilharris@maidstone.gov.uk](mailto:neilharris@maidstone.gov.uk).

In accordance with the Gambling Commission’s Guidance for Local Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. 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.

This Licensing Authority has adopted and implemented a riskbased inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36; and
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which its authorises.

~~The Gambling Commission will be the enforcement body for the Operating and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.~~

~~This Licensing Authority also keeps itself informed of developments as regards work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.~~

~~Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Neil Harris, Democratic Services Manager [neilharris@maidstone.gov.uk](mailto:neilharris@maidstone.gov.uk) or~~

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[licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk) our risk methodology is also available on request.

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## APPENDIX 1

The Gambling Commission's Guidance for Licensing Authorities states the following. The paragraphs below endeavour to meet this requirement:

*"The Licensing Authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permission and matters that it will consider when determining whether to review a licence. This is where considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children, should be detailed (where they are relevant). Any such policy must, however, come with the qualification that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, that will have to be taken into account."* (6.37)

### 1. PERMITS

#### (i) **Unlicensed Family Entertainment Centre Gaming Machine Permits**

##### **(Statement of Principles on Permits - Schedule 10 Paragraph 7)**

Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit.

The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.

The Gambling Commission's Guidance for Local Authorities states:

*"In its Licensing Authority Statement of Policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues."*(24.6)

The Guidance also states:



|

*"The licensing authority can grant or refuse an application for a permit, but cannot add conditions. 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. Unlicensed FECs, by definition, will not be subject to scrutiny by the Commission as no operating (or other) licences will be applied for and issued. Licensing authorities might wish to consider asking applicants to demonstrate:*

- *a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs*
- *that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)*
- *that employees are trained to have a full understanding of the maximum stakes and prizes."*(24.7)

#### **Statement of Principles**

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

With regard to **renewals** of these permits, the licensing authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit. (24.17)

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

**(ii) (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 two gaming machines, of categories C and/or D. The applicant merely needs 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

If a premises wishes to have more than two machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*"

This Licensing Authority considers that "*such matters*" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may require a Premises Licence for their non-alcohol licensed areas.

Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre Premises Licence.

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

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

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

The Gambling Act 2005 states that a Licensing Authority may:

“Prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which

“May, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit”.

This Licensing Authority has prepared a **Statement of Principles** which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).

It should be noted that there are conditions in the Gambling Act 2005 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.

**(iv) 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 machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). 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 restricted to bridge and whist but there is no need for a club to have an alcohol licence." (25.5)

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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;
- (e) an objection has been lodged by the Commission or the police (25.40)

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It should be noted that there is a 'fast-track' procedure available for premises that hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

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- (a) that the club is established primarily for gaming, other than gaming prescribed by regulations under Section 266 of the Act;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming;
- (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled." (25.45)

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~~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 (three machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Machine Permit will enable the premises to provide gaming machines (three machines of categories B, C or D). This does not seem to square with 16.19 proposed Guidance? Also, not same as kent model.~~

~~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 and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations. They may apply for club gaming or club machine permits." New quote para 25.5 see Kent model~~

~~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" is this para necessary?~~

~~There is also a 'fast-track' procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 Schedule 12 paragraph 10.~~

~~As the Gambling Commission's Guidance for Local Authorities states:~~

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~~"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced"; and~~

~~"The grounds on which an application under the process may be refused are that:~~

~~(a) — the Club is established primarily for gaming, other than gaming prescribed under section 266 of the Act~~

~~(b) — in addition to the prescribed gaming, the applicant provides facilities for other gaming; or~~

~~(c) — a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled." same comment~~

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~~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 a Code of Practice about the location and operation of gaming machines.~~

## 2. PREMISES LICENCES

### (i) Decision Making - General:

Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which will 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 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;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's Statement of Licensing Policy.

As regards licence conditions, the 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:

~~Any conditions attached to Licences will be proportionate and will be:~~

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects (9.29)

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the applicant to offer his/her

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own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority is in agreement with these statements by the Gambling Commission.

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There are also conditions which the licensing authority cannot attach to premises licences which are:

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- 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

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This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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This Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; 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. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

~~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.~~
- ~~•~~

**(ii) Premises including "split premises"**

"Premises" is defined in the Act as "any place" Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities are advised to pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in ~~the third edition of its~~ Guidance to Licensing Authorities that:

*"In most cases the expectation is that a single building/ plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the*

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*suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.” (7.1314)*

This Licensing Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice, that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence. (7.18)

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below from paragraph 7.25 of the Guidance.

**(iii) Location**

This licensing authority notes the Guidance which states that: "Licensing authorities may need to consider the location of premises in the context of this<sup>1</sup> 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." (5.11)

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~~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 can. As per the Gambling Commission's Guidance for Local Authorities, this 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.~~

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#### **(iv) Primary Activity**

By distinguishing between premises types the Act makes it clear that the primary gambling activity of the premises should be that described. Thus, in a bingo premises, the primary activity should be bingo. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities.

The Licensing Authority will take account of the Commission's document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.

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#### **(v)(iv)- Planning**

Planning and licensing are different regulatory systems and will be dealt with separately. The Guidance states: "When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or

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<sup>1</sup> Preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

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.” (7.67)

This authority will 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.

Planning and Licensing are different regulatory systems and will be dealt with separately.

This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it.

It 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.

**(vi) Duplication**

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

As stated in Section 9. on Enforcement, as per the Gambling Commission’s Guidance for Local Authorities, this Licensing Authority will seek to avoid duplication with other regulatory regimes so far as possible.

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**(vii) Door Supervisors**

The Guidance states 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.

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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.

However where a casino or bingo premises are licensed under the Licensing Act 2003 Door Supervisors employed are required to be licensed under the PSIA Act 2001 to enable them to perform their functions under that Act.

The Gambling Commission advises in its Guidance for Local Authorities that Licensing Authorities may consider whether there is a need for Door Supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Door Supervisors at casinos or bingo premises cannot be licensed

~~by the Security Industry Authority (SIA). This Licensing Authority therefore has specific requirements for Door Supervisors working at casinos or bingo premises which are that they provide a CRB check with no relevant current convictions. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.~~

~~For premises other than casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA Licensed or not. It will not be automatically assumed that they need to be.~~

**(viii) Licensing Objectives**

This Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are provided with regard to the licensing objectives.

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

This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of Door Supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

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

This Licensing Authority has noted that the Gambling Commission in its Guidance for Local Authorities has noted that:

*"Generally the Commission would not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence."*

This Licensing Authority also notes, however, that the Gambling Commission also states:

*"In relating to the licensing tracks the Licensing Authorities' role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable."*

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

This Licensing Authority has noted the Gambling Commission's Guidance for Local Authorities states 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, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this Licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

This Licensing Authority will also take into account the Codes of Practice which the Gambling Commission issues as regards this Licensing objective, in relation to specific premises such as casinos.

As regards the term "*vulnerable persons*" it is noted that the Gambling Commission is not seeking to offer a definition but states that:

*"It will be for regulatory purposes to 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."*

This Licensing Authority will consider the objective on a case-by-case basis.

### **(viii) 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;

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- 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 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 Licence on the basis of any reason that it thinks is appropriate.

Review will be determined by the Licensing Committee.

**(ix) Provisional Statements**

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered
- expects to acquire a right to occupy

This Licensing Authority notes the Guidance for the Gambling Commission which states that:

“As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if 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. An 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.” (7.61)

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In terms of representations about premises licence applications, following the grant of a provisional statement, the 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:

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- (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 in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision". (11.7,11.8 and 11.9)

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This authority also has noted in the Guidance that "A 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."

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*"It is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence"; and that*

*"Requiring the building to be complete ensures that the Authority can inspect it fully".*

In terms of representations about Premises Licence applications, following 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:

- (a) — which could not have been raised by objectors at the provisional licence stage; or
- (b) — which in the Authority's opinion reflects a change in the operator's circumstances.
- (c) — Where the premises has not been constructed (11.9 Guidance)

This Licensing Authority has noted the Gambling Commission's Guidance that:



~~"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 way of representations at the provisional licence stage~~
- ~~• which, in the authority's opinion, reflect a change in the operator's circumstances~~
- ~~• where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision."(11.9)~~

#### **(xi) Adult Gaming Centres**

~~This licensing authority particularly notes that the Guidance states: "No-one under the age of 18 is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised, for example, where an AGC is in a complex, such as a shopping centre or airport." (21.4)~~

~~This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.~~

~~This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues 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-barring schemes~~
- ~~• Provision of information leaflets/helpline numbers for organisations such as GamCare.~~

~~This list is not mandatory, nor exhaustive, and is merely indicative of example measures.~~

~~The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that~~

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may be issued by the Gambling Commission in respect to such applications any decision-making.

This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

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#### **(xii) (Licensed) Family Entertainment Centres**

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This Licensing Authority will, as per the Gambling Commission's Guidance refer to the Commission's website to see any conditions that apply to Operator Licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these Premises Licences as published in the 3<sup>rd</sup> Edition Guidance May 2009.

#### **(xiii) Tracks**

This Licensing Authority is aware that tracks may be subject to more than one Premises Licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (ie the protection of children and vulnerable persons from being harmed or exploited by gambling) 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.

This Licensing Authority will therefore expect the Premises Licence applicant 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.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues 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-baring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### ***Gaming machines***

Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority notes the Commission's Guidance that Licensing Authorities therefore need to consider the location of gaming machines at tracks, and applications for track Premises Licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

#### ***Betting machines***

This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. [\(16.34\)](#)

It will also take note of the Gambling Commission's suggestion that Licensing Authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

#### **Condition on rules being displayed**

The Gambling Commission has advised in its Guidance for Local Authorities that "... Licensing Authorities should attach a condition to track Premises Licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

#### **Applications and plans**

This Licensing Authority awaits regulations setting out any specific requirements for applications for Premises Licences but is in accordance with the Gambling Commission's suggestion:

*"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; and that*

*Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence."*

This Licensing Authority also notes that 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, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

#### **(xix) Bingo**

The Gambling Commission's Guidance states:

*"Licensing authorities will need to satisfy themselves 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."*

This Licensing Authority also notes the Guidance at paragraph 18.8 regarding 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.

In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' (7.12 – 7.20) and how it relates to the primary gambling activity.

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.

#### **(xiv) Premises “ready for gambling”**

~~The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.~~

~~If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.~~

~~In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:~~

- ~~• First, whether the premises ought to be permitted to be used for gambling.~~
- ~~• Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.~~

~~Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.~~

~~More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59–7.66 of the Guidance.~~

#### **(xvi) Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, e.g. backgammon, mah-jong, rummy kalooki, dominoes, cribbage, bingo and poker.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

#### **(xvii) Occasional Use Notices**

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

#### **(xviii) Travelling Fairs**

It will fall to this licensing authority 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.

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The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair. It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, 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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses shared boundaries is monitored so that the statutory limits are not exceeded  
The Act defined a travelling fair as “wholly or principally” providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.

It will fall to this Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27 day statutory maximum for the land being used as a fair is per calendar year, 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. This 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. The 27 day part repeats itself reword, see kent model.

### **(ixviii) Betting Premises Betting Machines**

**Betting machines** - The Guidance states: “Section 181 of the Act 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 these 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 employees to monitor the use of the machines by vulnerable people.” (16.34)

**Credit** - The Gambling Commission Guidance states: “section 177 does not prevent the licensee from contracting a third-party to install cash dispensers (ATMs) on their premises, which may accept both credit and debit cards. Such an arrangement is subject to requirements that the premises licence holder has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines), does not profit from the arrangement, and does not

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make any payment in connection with the machines. All premises licences also include a mandatory condition which requires that any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.” (9.12)

~~This Licensing Authority will, as per the Gambling Commission's Guidance, 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.~~



**GAMBLING COMMISSION FUNCTIONS**

<b>Function</b>	<b>Who deals with it</b>
Issue and renewal of <i>Operating Licences</i>	Gambling Commission
Review <i>Operating Licences</i>	Gambling Commission
Issue <i>Personal Licences</i>	Gambling Commission
Issue <i>Codes of Practice</i>	Gambling Commission
Issue <i>Guidance to Licensing Authorities</i>	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the <i>manufacture, supply, installation, adaptation, maintenance or repair of gaming machines</i>	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

**LIST OF PERSONS CONSULTED**

**The Chief Officer of Police**

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**Town Centre Management**

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**Environmental Health Department**

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**Planning Department**

**Gambling Commission**

**Maidstone & Malling Police**

**Kent Fire & Rescue Service**

**Kent Social Services**

**HM Revenue and Customs**

**Environment Agency**

**British Waterways Board**

**Secretary of State**

**All Maidstone Borough Councillors**

**All Parish Councillors**

**All premises currently licensed to sell or supply alcohol**

**All premises currently licensed for regulated entertainment**

**All premises currently licensed for late night refreshments**

**Any other prescribed in regulations by Secretary of State**

**All currently licensed gambling premises**

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**Youth/community groups/ CAB/ problem gambling organizations**

**GamCare**

2 & 3 Baden Place

Crosby Row

London SE1 1YW

Tel: 020 7378 5200

Website: [www.gamcare.org.uk](http://www.gamcare.org.uk)

**The Bingo Association**

Lexham House

75 High Street (North)

Dunstable

Bedfordshire LU6 1JF

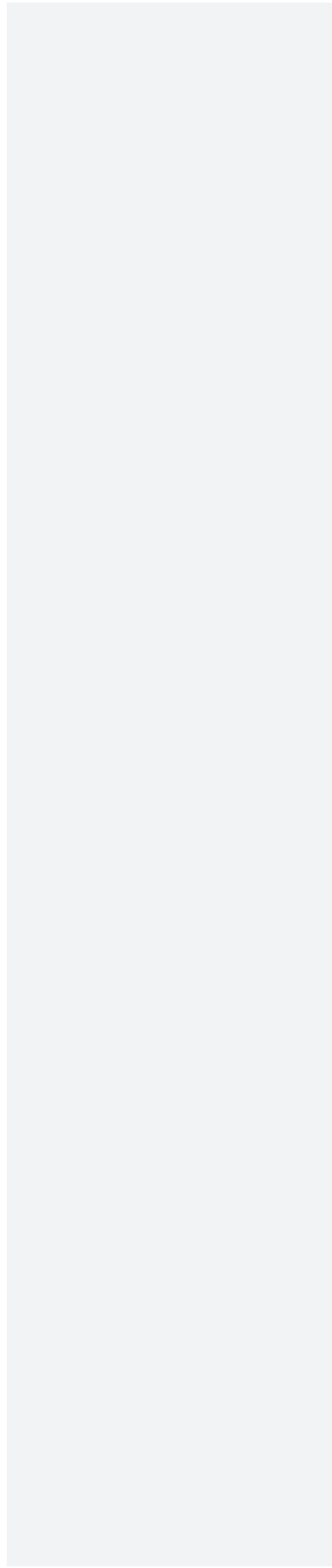
Tel: 01582 860921  
Website: [www.bingo\\_association.co.uk](http://www.bingo_association.co.uk)

**British Casino Association**

38 Grosvenor Gardens  
London SW1W 0EB  
Tel: 020 7730 1055  
Website: [www.britishcasinoassociation.org.uk](http://www.britishcasinoassociation.org.uk)

**This list is not finite and other persons or organisations may be added.**

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**RESPONSIBLE AUTHORITIES CONTACT DETAILS****Licensing Authority**

Maidstone Borough Council  
 Maidstone House  
 King Street  
 Maidstone  
 Kent ME15 6JQ

**Gambling Commission**

Victoria Square House  
 Victoria Square  
 Birmingham B2 4BP

**Chief Officer of Police for the area in which the premises is wholly or partially situated.**

Maidstone Police Station  
 Palace Avenue  
 Maidstone  
 Kent ME15 6NF

**Kent Fire & Rescue Service**

The Godlands  
 Tovil  
 Maidstone  
 Kent

**Local Planning Authority**

Maidstone Borough Council  
 Maidstone House  
 King Street  
 Maidstone  
 Kent ME15 6JQ

**Environmental protection/Health & Safety**

Maidstone Borough Council  
 Maidstone House  
 King Street  
 Maidstone  
 Kent ME15 6JQ

**Kent Social Services**

Brenchley House  
 County Hall  
 Maidstone  
 Kent ME14 1RF

**HM Revenue and Customs**

National Registration Unit  
Portcullis House  
21 Indian Street  
Glasgow  
G2 4PZ  
~~Dobson House~~

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TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

<u>MATTER TO BE DEALT WITH</u>	<u>FULL COUNCIL</u>	<u>SUB-COMMITTEE OF LICENSING COMMITTEE</u>	<u>OFFICERS</u>
<u>Final approval of three year licensing policy</u>	X		
<u>Policy not to permit casinos</u>	X		
<u>Fee Setting (when appropriate)</u>	X		
<u>Application for premises licences</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/representations have been withdrawn</u>
<u>Application for a variation to a licence</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/representations have been withdrawn</u>
<u>Application for a transfer of a licence</u>		<u>Where representations have been received from the Commission or responsible authorities</u>	<u>Where no representations received from the Commission or responsible authorities</u>
<u>Application for a provisional statement</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/representations have been withdrawn</u>
<u>Review of a premises licence</u>		X	
<u>Application for club gaming /club machine permits</u>		<u>Where objections have been made and not withdrawn</u>	<u>Where no objections made/objections have been withdrawn</u>
<u>Cancellation of club gaming/ club machine permits</u>		X	
<u>Applications for other permits</u>			X
<u>Cancellation of licensed premises gaming machine permits</u>			X
<u>Consideration of temporary use notice</u>			X
<u>Decision to give a counter notice to a temporary use notice</u>		X	

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