

# AGENDA

## LICENSING COMMITTEE MEETING



Date: Thursday 29 September 2016

Time: 6.30 pm

Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillors Adkinson, Garten, Greer, Mrs Grigg,  
Mrs Hinder, Joy (Chairman),  
McLoughlin, B Mortimer, Naghi (Vice-  
Chairman), Newton, Mrs Robertson  
and Springett

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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

**Continued Over/:**

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**Issued on Wednesday 21 September 2016**

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 Poppy Collier 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**

5. Disclosures of Lobbying
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 5 September 2016 - to follow
8. Report of the Head of Housing and Community Services - Revised Statement of Principles for Gambling Act 2005 Policy 1 - 113
9. Report of the Head of Housing and Community Services - Draft Licensing Compliance and Enforcement Policy 114 - 134
10. Report of the Head of Housing and Community Services - Demonstration and oral report from the Head of Housing and Community Services on the Proposed introduction of a online taxi driver knowledge test

Is the final decision on the recommendations in this report to be made at this meeting?	<b>No</b>
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## Revised Statement of Principles for Gambling Act 2005 Policy

<b>Final Decision-Maker</b>	Full Council
<b>Head of Service</b>	John Littlemore
<b>Lead Officer/Report Author</b>	Lorraine Neale
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

**This report makes the following recommendations to the final decision-maker:**

1. To undertake a 12 week consultation on the proposed revised Maidstone Borough Council's Statement of Licensing Principles / Gambling Policy drafted in accordance with the Gambling Commissions 5<sup>th</sup> edition Guidance, Appendix A
2. To receive a further report after the conclusion of the consultation and consider any comments prior to formally recommending a revised Statement of Licensing Principles for the Gambling Act 2005 to Council for adoption.

**This report relates to the following corporate priorities:**

- Great People
- Great Place
- Great Opportunity

**Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee (To consider consultation responses)	26 January 2017
Full Council	1 March 2017

# Revised Statement of Licensing Principles for Gambling Act 2005

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. Section 155 states that this function may not be delegated from Council and so this Committee will recommend a proposed document to Council following consultation.
- 1.2 The current policy took effect in January 2016 after an initial 'light touch' review as the publication of the 5<sup>th</sup> edition of Gambling Commission Guidance was published too late to be included in the draft. Members agreed that a more detailed review of the policy should be undertaken later in 2016 and be brought back to Committee for consideration prior to going out to public consultation. This paper sets out the proposed revised version for consideration, Appendix A.
- 1.3 In accordance with the 5<sup>th</sup> Edition of the Gambling Commission Guidance to Local Authorities the focus of our latest review is concentrated on Local Risk Assessments and Local Area Profiles.

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## 2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act).
- 2.2 The Council is required to produce a Statement of Licensing Principles for the Gambling Act 2005 to demonstrate how applications received under the Act will be dealt with.
- 2.3 Section 153 of the Act requires that when exercising functions under the Act the Licensing Authority **shall aim to permit** the use of premises for gambling in so far as the authority thinks it is in accordance with
  - (a) any relevant code of practice s.24;
  - (b) any relevant guidance issued by the Gambling Commission under s.25;
  - (c) is reasonably consistent with the licensing objectives (subject to a and b above), and;
  - (d) the statement published by the authority under s.349 (statement of licensing policy) (subjects to paragraphs a to c above).
- 2.4 The Gambling Commission (the Commission) has introduced new provisions in its social responsibility code within the [Licence Conditions and Codes of Practice \(LCCP\)](#), which require gambling operators to assess the local risks to

the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling. In making these risk assessments licensees must take account of the Licensing Authority's Statement of Licensing Principles.

**2.5** The gambling objectives are:

- i) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
- ii) ensuring that gambling is conducted in a fair and open way and
- iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.

**2.6** Members may recall considering an interim report on the draft 5<sup>th</sup> edition Gambling Commission Guidance consultation in September 2015 and to consider the impact on the Council's then current policy. Although the guidance was only draft, it was determined that the Council would still undertake a consultation initiative, prior to any finalisation of the guidance due to the statutory time limits involved.

**2.7** Due to the guidance only being in draft form at the time of the initial consultation and with regards to the responses, it was determined that as an interim arrangement the Authority undertake a 'light touch' review of our existing policy and undertake a more detailed review in 2016 to fully meet our statutory obligations after publication of the final version of Guidance.

**2.8** This proposed revised Policy (Appendix A) reflects a more detailed review and has incorporated additional elements in respect of the Risk Assessments and Local Area Profiling. There is no requirement upon Licensing Authorities to prepare a Local Area Profile, but the Gambling Commission is encouraging authorities along this route. By doing this Operators will need to take this into account when preparing their own Local Risk Assessments, which is a mandatory requirement. Although the Council has not had any previous issues in this area, the template Risk Assessment will enable us to provide a clear framework to assist us in determining the suitability of future applications. (Appendix B)

**2.9** In addition, as part of the Policy revision we have taken the opportunity to produce a range of model Conditions for Gambling Premises Licences which can be adapted to suit where necessary, and includes both the Mandatory and Default conditions. (Appendix C)

**2.10** It is therefore proposed that Members approve the proposed revision at Appendix A and authorise officers to commence a public consultation (week commencing 6<sup>th</sup> October 2016) with those interested parties set out in the statement of Licensing Principles at Appendix 5 with a view to bringing a further report back to Committee reflecting on any comments received. Due to the significant changes to the policy, it is proposed to undertake a 12 week public

consultation. Members will then consider any responses and determine whether they need to be reflected in the Policy before referral to Full Council for consideration of adoption.

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### **3 AVAILABLE OPTIONS**

- 3.1** It is a statutory requirement for the Council to have a current statement of licensing principles in place covering the principles for its functions under the Act. The Authority is required to have an up to date policy and therefore should incorporate the 5<sup>th</sup> edition of the Gambling Commissions Guidance (Option 1)
- 3.2** To retain the current policy, however this would not fulfil a previous decision undertake by the Committee to carry out a further review and consider the 5<sup>th</sup> edition of the Gambling Commissions Guidance. (Option 2)
- 

### **4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1** Option 1: A comprehensive updated policy will improve the consistency in delivering the service and will better inform applicants of the licensing process in an open and transparent way, enabling the Authority to continue to have a 'fit for purpose' policy in place.
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### **5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1** No consultation currently undertaken on the revised draft document. Members are requested to agree the proposed way forward to undertake a 12 week public consultation with all parties listed at Appendix 5 of the Statement of Licensing Principles and to consider a future report later in the year following its conclusion.
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### **6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1** If Members agree that the proposed way forward and to consult on the revised policy, a future report will be considered following public consultation.
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### **7 CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	No issues identified	[Head of Service or Manager]
<b>Risk Management</b>	No issues identified	[Head of Service or

		Manager]
<b>Financial</b>	No issues identified	[Section 151 Officer & Finance Team]
<b>Staffing</b>	No issues identified	[Head of Service]
<b>Legal</b>	The Licensing Authority must formally review its adopted Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	[Legal Team]
<b>Equality Impact Needs Assessment</b>	None identified at this stage.	[Policy & Information Manager]
<b>Environmental/Sustainable Development</b>	The Licensing Authority must formally review its adopted Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	[Head of Service or Manager]
<b>Community Safety</b>	No issues identified	[Head of Service or Manager]
<b>Human Rights Act</b>	No issues identified	[Head of Service or Manager]
<b>Procurement</b>	No issues identified	[Head of Service & Section 151 Officer]
<b>Asset Management</b>	No issues identified	[Head of Service & Manager]

## 8 REPORT APPENDICES –

The following documents are to be published with this report and form part of the report:

- Appendix A: Revised Draft Policy
  - Appendix B: Guidance on Undertaking Local Gambling Risk Assessments
  - Appendix C: Mandatory, Default and Maidstone Borough Council's Pool of Model Conditions for Gambling Premises Licences
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## 9 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5<sup>th</sup> edition, September 2015  
<http://www.gamblingcommission.gov.uk/pdf/GLA/GLA.pdf>
- Existing Statement of Principles  
[http://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0019/27631/Gambling-Licensing-Policy-June-2016.pdf](http://www.maidstone.gov.uk/_data/assets/pdf_file/0019/27631/Gambling-Licensing-Policy-June-2016.pdf)
- Licence Conditions and Codes of Practice for Operators  
[Licence Conditions and Codes of Practice \(LCCP\)](#),

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# Maidstone Borough Council

## **'Gambling Act 2005 Statement of Licensing Principles' 2016 -2019**

September 2016

## CONTENTS

Item	Page
1. The Licensing Objectives	4
2. Introduction	5
3. Declaration	7
4. Functions	8
5. Operators	9
6. Risk Assessments	9-10
7. Local Area Profiles	11-12
8. Responsible Authorities	12
9. Interested Parties	13
10. Exchange of Information	14
11. Public Register	14
12. Compliance & Enforcement	14-15
The appendices that follow form part of this Policy Statement	
<b>Appendix 1. Permits</b>	<b>16</b>
(i) Unlicensed family entertainment centre gaming machine permits	16
(ii) (Alcohol) licensed premises gaming machine permits	17
(iii) Prize gaming permits	18
(iv) Club gaming and club machine permits	20
<b>Appendix 2. Gambling Premises Licences</b>	<b>22</b>
(i) Decision making – general	22
(ii) “Premises”	23
(iii) Location	24
(iv) Planning	25
(v) Duplication	25
(vi) Door Supervisors	25
(vii) Licensing Objectives	26
(viii) Reviews	26
(ix) Provisional Statements	26-27
(x) Adult Gaming Centres	27
(xi) (Licensed) Family Entertainment Centres (FEC)	27-28
(xii) Tracks	28
(xiii) Casinos	28
(xiv) Bingo	28

(xv) Temporary Use Notices (TUN)	28
(xvi) Occasional Use Notices (OUN)	29
(xvii) Travelling Fairs	29
Help with gambling related problems	29
Appendix 3. Responsible Authorities	30
Appendix 4. Table of Delegations of Licensing Functions	31-33
Appendix 5. List of Consultees	34
Appendix 6. Summary of Gaming Machines by Premises	35-36
Appendix 7. Summary of Stakes & Prizes	37
Appendix 8. Statement of Principles for Unlicensed Family Entertainment Centres, Gaming Machine Permits & Prize Gaming Permits	38-43

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## 1. The Licensing Objectives

The Gambling Act 2005 ('The Act') requires that in exercising most of its functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. 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.**

It should be noted that the Gambling Commission (the Commission) has stated "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

Maidstone Borough Council as "The Licensing Authority" for the Maidstone Borough will aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act 2005.

### **Principles to be applied - Section 153**

In exercising its functions under this part the Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority think it –

- a) the Gambling Commission's code of practice;
- b) the Guidance to local authorities;
- a) the Licensing Authority's own statement of principles;
- b) the three licensing objectives.

In determining whether to grant a Premises Licence a Licensing Authority must not have regard to the expected demand for gambling premises that are the subject of the application.

Any objection to an application for a Premises Licence or request for a review of an existing licence should be based on the Licensing Objectives of the Gambling Act 2005. It should be noted that, unlike the Licensing Act 2003, the Gambling Act 2005 does not include as a specific Licensing Objective for the prevention of public nuisance. The licensing authority take the view that certain issues, incidents or events that might typically be classed as nuisance, public nuisance or antisocial behaviour might also be considered to be issues, incidents or events of disorder. The licensing authority will apply the ordinary meaning of disorder and consider each case on its own merits. The licensing authority will in all cases consider whether other relevant legislation would be more appropriate in the circumstances of any given application.

## 2. Introduction

The Maidstone Borough Council Area

### MAIDSTONE BOROUGH COUNCIL – PARISHES



Maidstone Borough Council is a member of the Licensing Partnership, which includes Tunbridge Wells Borough Council and Sevenoaks District Council. However this policy relates to Maidstone.

Licensing authorities are required by the Gambling Act 2005 to publish a Gambling Policy Statement, setting out the principles that they propose to apply when exercising these functions. This Statement may be reviewed from time to time but must be republished at least every three years. This policy was approved by Full Council on XXXX to come into force XXX 2017.

In determining its policy the Licensing Authority shall have regard to Commission's Guidance and give appropriate weight to the views of those who respond to its consultation.

This draft policy has been prepared in accordance with the Gambling Commission's 5th Edition Guidance to Licensing Authorities (September, 2015).

The Commission has introduced the following amendments to the Guidance which:

- reflect regulatory and legislative changes since the 2012 version;
- reflect recent changes to the social responsibility provisions within the Commission's Licence Conditions and Codes of Practice;
- promote local partnership working between licensing authorities, the Commission and the industry to work in partnership to address local issues and concerns; and
- provide greater clarity about the wide range of powers afforded to licensing authorities to manage local gambling regulation through measures such as their statement of licensing policy.

The Licensing Authority will consult widely on the Gambling Policy statement before it is finalised and published.

The Act requires that the following parties be consulted by Licensing Authorities:

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;
- 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 Act.

A list of those persons consulted is attached at appendix 5.

The consultation for the policy will take place between **6 October 2016 and 23 December 2016, a period of 12 weeks**. The Licensing Authority has followed, as far is reasonably practicable given the time constraints, the Revised Code of Practice (April 2004) and the Cabinet Office Guidance on consultations by the public sector.

The full list of comments made and the consideration by the Licensing Authority of those will be available upon request to: The Licensing Administration Team via email [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk) or by telephoning 01732 227 004.

The draft policy is published on Maidstone Borough Council's website <http://www.maidstone.gov.uk/>. Copies will be placed in the public libraries within the area and is available in the Council's principal offices.

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 Act.

### **3. Declaration**

In producing the final licensing policy statement, this Licensing Authority declares that it will have had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission, as amended, and any responses from those consulted on the policy statement.

Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers, and should not be interpreted as legal advice or as part of the Council's policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, the Guidance, or regulations issued under the Act.

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#### 4. Licensing Authority Functions

Function	Who deals with it
Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences	Licensing Authority
Issue Provisional Statements	Licensing Authority
Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits	Licensing Authority
Issue Club Machine Permits to Commercial Clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines	Licensing Authority
Register small society lotteries below prescribed thresholds	Licensing Authority
Issue Prize Gaming Permits	Licensing Authority
Receive and endorse Temporary Use Notices	Licensing Authority
Receive Occasional Use Notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licences issued (see section 8 on 'information exchange')	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions	Licensing Authority

#### Gambling Commission Functions

Function	Who deals with it
Issue and renewal of Operating Licences	Gambling Commission
Review Operating Licences	Gambling Commission
Issue Personal Licences	Gambling Commission
Issue Codes of Practice	Gambling Commission

Issue Guidance to Licensing Authorities	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

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.

## 5. Operators

Gambling businesses are required to have an operator licence issued by the Gambling Commission before they can operate in Great Britain. Operator licences can be issued for up to ten different types of gambling activity and a separate licence is needed for both remote and non-remote gambling of the same types.

An operator licence gives a general authorisation for a business to provide gambling facilities, but a business wishing to provide non-remote gambling facilities in a Licensing Authority area is required to apply for a premises licence that is specific to the particular premises.

Operators are required to comply with conditions attached to both their operator and individual premises licences. They are also required to adhere to the mandatory provisions in the Gambling Commission's Social Responsibility Code of Practice and take account of the provisions in the Ordinary Code of Practice (although these are not mandatory).

The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their local premises. With effect from April 2016, all non-remote licensees that run gambling premises will be required to assess the local risks to the licensing objectives arising from each of their premises and have policies, procedures and control measures to mitigate them.

Licensees are required to take into account the Licensing Authority's statement of principles in developing their risk assessments.

## 6. Risk Assessments

Gambling operators are required to undertake a risk assessment for all their existing premises as from 6<sup>th</sup> April 2016. In undertaking their risk assessments, they must take into account relevant matters identified in the Licensing Authority's Statement of Policy.

Following that date, operators must also undertake a review of these assessments when certain triggers are met. These 'triggers', along with the Council's views on what would

instigate either a new assessment or the review of an existing one are detailed at appendix B attached to this document.

Operators are advised to share their risk assessments when submitting such applications, or otherwise at the request of the Licensing Authority, such as when they are inspecting a premises.

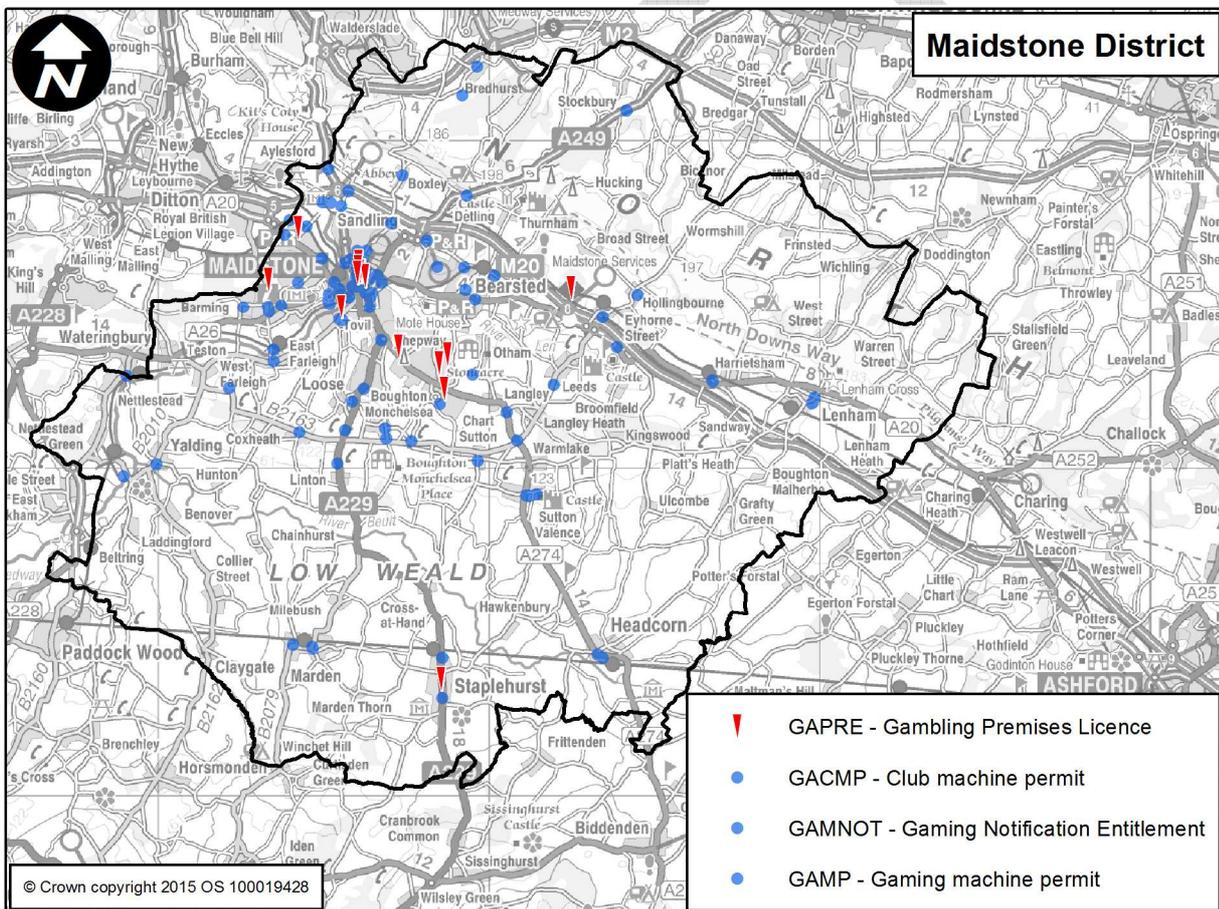
Such risk assessments can make reference to the Licensing Authority's Local Area Profile, which may be compiled with respect to reported gambling-related problems in an area.

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## 7. Local Area Profile (LAP)

The Guidance indicates licensing authorities complete and map their own assessment of local risks and concerns by developing Local Area Profiles to help shape their statements (although there is no requirement to do this). In simple terms, the objective of the profile is to set out what the area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the Licensing Authority and operators. Importantly, risk in this context includes potential and actual risks, thereby taking into account possible future emerging risks, rather than reflecting current risks only.

Gambling Premises are mapped out within the Borough (red markers) and those premises that have gaming machine permits (Licensed Premises and Club) and gaming permits (Clubs) to indicate the location of the premises. There are 17 betting gambling premises across the Borough and there are no areas of high density of gambling premises. Gambling premises and gambling activities are concentrated in and around Maidstone, which the map demonstrates.



In assessing local area profiles, Licensing Authorities can also take into account the location of

- schools, sixth form colleges, youth centres etc., with reference to the potential risk of under-age gambling

- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (E.g., seaside resorts may typically have more arcades or FECs).

In drafting this document relevant bodies and organisations were contacted for evidence of existing problems. However, information at the time of drafting this Statement of Principles was unavailable. This Licensing Authority does not have evidence that there are specific issues at the moment to support the assertion that any part of the Borough had or is experiencing problems from gambling activities.

Complaints are only one means to consider addressing risk as they are related to an event that has happened, rather than the probability of an event happening and the likely impact of that. This position will be kept under review, and in the event that it changes, further research will be carried out to discover the extent of the problems and to prepare a Local Area Profile (LAP). If there is a need or evidence to develop the LAP further this will be done outside the scope of this document and updated as information changes.

## **8. Responsible Authorities**

In exercising the 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 Commission's Guidance for Local Authorities the Licensing Authority designates the following for this purpose:

### **Children's and Families - KCC Social Service**

The contact details of all the Responsible Bodies under the Gambling Act 2005 are listed at Appendix 3 of the policy.

## 9. Interested parties

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

Section 158 of the Gambling Act 2005 defines interested parties as persons who, in the opinion of the Licensing Authority;

- 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;
- c) represents persons who satisfy paragraph (a) or (b).

An interested party can make representations about licence applications or apply for a review of an existing licence.

Each application will be decided upon its merits. This Authority will not apply rigid rules to its decision-making. However, it will consider the Commission's Guidance issued to local authorities.

The Gambling Commission has emphasised that 'demand' cannot be a factor in determining applications.

The Guidance states that moral objections to gambling are not a valid reason to reject applications for premises licences, as such objections do not relate to the licensing objectives. All objections must be based on the licensing objectives.

The Commission has recommended that the Licensing Authority state within its Gambling Policy Statement that interested parties may include trade associations, trade unions, and residents and tenants' associations. However, this Authority will not generally view these bodies as interested parties unless they have a person who in the opinion of the Licensing Authority:-

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph a) or b).

Interested parties can be persons who are democratically elected, such as Councillors and MP's. No evidence of being asked to represent an interested person will be required provided the Councillor/MP represents the relevant ward. Likewise, parish councils may be considered to be interested parties.

Apart from these exceptions this Authority will require written confirmation that a person/body/advocate/relative is authorised to represent an interested party. Where they can demonstrate that they represent person in (a) or (b) above, a letter of authorisation from one of these persons, requesting the representative to speak on their behalf will be sufficient.

Councillors who are not within the definition of an "interested party" may attend meetings of the Licensing Committee's Sub-Committees, but have no right to address the hearing unless appointed by an 'interested party' to assist or represent that party.

In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- 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 (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

If there are any doubts then please contact the Licensing Team via email at [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk) or by telephone 01622 602028.

## **10. Exchange of Information**

Licensing Authorities are required to include in their Gambling 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, 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 will apply is that it will have regard to the provisions of the Gambling Act 2005 in its exchange of information, and the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will have regard to any revised Guidance issued by the Gambling Commission on this matter as well as any regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Any protocols established as regards information exchange with other bodies will be made available.

## **11. Public Register**

The Licensing Authority is required to keep a public register and share information contained in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

## **12. Compliance and Enforcement**

The Licensing Authority will act in accordance with the relevant legislation and Guidance as amended from the Gambling Commission and adopt the principles of better regulation set out in the Regulators Compliance Code.

The purpose of the Licensing Authority's enforcement 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.

A copy can be requested via email at [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk) or by telephoning the Licensing Administration Team 01732 227004.

In accordance with the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes.

The Licensing Authority, as recommended by the Gambling Commission's Guidance, has adopted a risk-based inspection programme.

Licensing authorities are required by regulation under the Gambling Act 2005, to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The Licensing Authority's principles are that:

It will adopt the Guidance for local authorities and it will endeavour to be:

- **Proportionate**  
Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- **Accountable**  
Authorities must be able to justify decisions and be subject to public scrutiny.
- **Consistent**  
Rules and standards must be joined up and implemented fairly.
- **Transparent**  
Enforcement should be open and regulations kept simple and user friendly.
- **Targeted**  
Enforcement should be focused on the problems and minimise side effects.

The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.

The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences.

## Appendix 1

Factors to be taken into account when considering applications for premises licences, permits and other permissions including matters that will be considered when determining whether to review a licence.

### 1. Permits

- i. **Unlicensed Family Entertainment Centre (FEC) gaming machine permits**  
(Statement of Principles on Permits - Schedule 10 para7)

Where a premises does not hold a Premises Licence but wishes to provide gaming machines it may apply to the Licensing Authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. The Licensing Authority has considered and 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 policies and procedures are expected to include:

- What staff should do if they suspect that truant children are on the premises;
- How staff should deal with unsupervised young children on the premises;
- How staff should deal with children causing perceived problems on or around the premises;
- Safeguarding awareness training
- A basis criminal record check for staff or equivalent criminal records check for the applicant and also the person who has the day to day control of the premises;

The Licensing Authority will also expect applicants to demonstrate

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- 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 full understanding of the maximum stakes and prizes.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit and that the “statement of principles” only applies to initial applications and not to renewals (paragraph 8(2)). For initial applications, the Licensing Authority need not (but may) have regard to the licensing objectives and shall have regard to any Gambling Commission Guidance.

The Gambling Commission's Guidance for local authorities states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities may want to give weight to child protection issues."

The Gambling Commission's Guidance also states: "An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application."

**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;
- children causing perceived problems on/around the premises; and
- Safeguarding awareness training

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

**(ii) (Alcohol) Licensed Premises (Licensing Act 2003) 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 premises licence holders merely need to notify the Licensing Authority. The Licensing Authority may make an order disapplying the automatic entitlement 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 2005;
- the premises are mainly used for gaming; or
- an offence under the Gambling Act 2005 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 will 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 being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. 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.

Measures which will satisfy the Licensing Authority that there will be no access may include the adult machines being in sight of the bar or in the sight of staff that will monitor that the machines are not being used by those under 18 years old. 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 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, as amended, 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))**

Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, the Licensing Authority will want to give weight to child protection issues and will ask the applicant to set out the types of gaming that he or she is intending to offer. The applicant will be expected 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.

- What staff should do if they suspect that truant children are on the premises;
- How staff should deal with unsupervised young children on the premises;
- How staff should deal with children causing perceived problems on or around the premises;
- Safeguarding awareness training; and
- A basis criminal record check for staff or equivalent criminal records check for the applicant and also the person who has the day to day control of the premises;

The Licensing Authority will also expect applicants to demonstrate

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- that staff are trained to have full understanding of the maximum stakes and prizes; and
- that the gaming offered is within the law

In making its decision on an application for this permit the Licensing Authority need not (but may) have regard to the licensing objectives and shall have regard to any Gambling Commission Guidance.

The Gambling Act 2005, attaches mandatory conditions to all prize gaming permits. The Licensing Authority cannot attach conditions. The mandatory conditions are as follows:

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

- the 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 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 (Schedule 12 Para 1)**

Members' Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D).

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit which will enable the premises to provide gaming machines (three machines of categories B4, C or D).

The 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.

The Licensing Authority is aware that it may refuse an application on one or more of the following grounds:

- (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, or by both;
- (c) an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming activities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Gambling Commission or the police.

## **Fast Track Procedure (Schedule 12(10))**

There is also a procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12, para 10). 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:

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

There are statutory conditions on club gaming permits that no child uses a category B3A, B4 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.

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## Appendix 2

### 2. Gambling 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 detailed in regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.

The 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.

Any conditions attached to licences by the Licensing Authority 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
- are reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, 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. The Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

An applicant for a licence will need to specify what supervision is proposed for the area where machines are sited and to clarify how supervisors will be trained to recognise vulnerable adults.

The 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 a non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons less than 18 years of age.

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

The 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, the Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are 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":**

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

The Licensing Authority will have regard to the Commission's Guidance on the division of premises and access between premises.

The Licensing Authority takes particular note of the Guidance for Local Authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, licensing authorities should be aware that:

- the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and
- entrances 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 that people do not 'drift' into a gambling area.

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

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Licensing Authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

**(iii) Location:**

The 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, the Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**(iv) Planning:**

Planning and licensing are different regulatory systems and will be dealt with separately. The Gambling Commission's Guidance states: "When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents.

Those matters should be dealt with under relevant planning control, building and other regulations and 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 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."

**(v) Duplication:**

As stated above in section 12 on Compliance and Enforcement, as per the Gambling Commission's Guidance for local authorities the Licensing Authority will seek to avoid duplication with other regulatory regimes so far as possible.

**(vi) Door Supervisors:**

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

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

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

The Licensing Authority therefore has specific requirements for door supervisors working at casinos or bingo premises, where there are multiple licensable activities and/or the Police Licensing Officer has concerns about the licensing objectives being undermined.

Where the premises are licensed under the Licensing Act 2003 door supervisors will be required to hold a relevant licence issued by the Security Industry Authority (SIA).

**(vii) Licensing objectives:**

The Licensing Authority has considered the Commission's Guidance to local authorities in respect of 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;*

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

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

**(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;
- it is reasonably consistent with the licensing objectives; and
- it is in accordance with the authority's statement of licensing policy.

Consideration will be given as to whether the request is frivolous, vexatious, or will certainly not cause the Licensing 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.

**(ix) Provisional Statements:**

The Licensing Authority notes the Guidance from the Gambling Commission which states:

S.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.

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 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.

**(x) Adult Gaming Centres (AGC):**

The Licensing Authority particularly notes the Commission's Guidance which states: "No-one under the age of 18 years of age 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 and an AGC is in a complex, such as a shopping centre or airport."

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives although 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.

**(xi) (Licensed) Family Entertainment Centres (FECs):**

Family Entertainment Centres are wholly or mainly used for having gaming machines available for use.

The 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.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives although 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.

**(xii) Tracks:**

The Licensing Authority is aware that the Gambling Commission may provide specific Guidance as regards tracks. The Licensing Authority shall have regard to this Guidance in the discharge of its functions.

**(xiii) Casinos:**

The Licensing Authority has not passed a 'no Casino' resolution under Section 166(1) of the Gambling Act 2005; therefore this would allow the authority to grant a Casino licence.

Any future decision to pass or not pass such a resolution will be made by the Council's Licensing Committee and will need to be endorsed by the Full Council, but will only be taken after a full consultation process has been undertaken within its area.

**(xiv) Bingo:**

The Licensing Authority will have regard to the Gambling Commission's Guidance.

**(xv) Temporary Use Notice (TUN):**

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the Licensing Authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site (see Gambling Commission's Guidance for Local Authorities).

**(xvi) Occasional Use Notice (OUN):**

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

**(xvii) Travelling Fairs:**

It will fall to the 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 its boundaries is monitored so that the statutory limits are not exceeded.

**Help with gambling related problems:**

A list of organisations where people may seek help will be available on the Licensing Authority's website.

## Appendix 3

### Responsible Authorities:

Further information about the Gambling Act 2005 and the Council's licensing policy can be obtained from:

#### Licensing Team

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

Tel: 01622 602028

e-mail: [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)

Website: [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

#### Local Planning Authority

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

Tel: 01622 602736

e-mail:

[planningsupport@midkent.gov.uk](mailto:planningsupport@midkent.gov.uk)

#### Chief Police Officer – (West Division)

Maidstone Police Station  
Palace Avenue  
Maidstone  
Kent  
ME15 6NF

Tel: 01622 690690

e-mail:

[west.division.licensing@kent.pnn.police.uk](mailto:west.division.licensing@kent.pnn.police.uk)

### Information can also be obtained from:

#### Gambling Commission

Victoria Square House  
Victoria Square  
Birmingham. B2 4BP

Tel: 0121 230 6666

Fax 0121 230 6720

e-mail: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

#### Environmental Protection/ Health and Safety

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

Tel: 01622 602202

e-mail:

[enforcementoperations@maidstone.gov.uk](mailto:enforcementoperations@maidstone.gov.uk)

#### Kent Safeguarding Children's Board

KCC Social Services  
Sessions House  
County Road  
Maidstone  
Kent ME14 1XQ

e-mail: [kscb@kent.gov.uk](mailto:kscb@kent.gov.uk)

[social.services@kent.gov.uk](mailto:social.services@kent.gov.uk)

## Appendix 4

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
	Final approval of three year licensing policy	Full Council
	Policy not to permit casinos	Full Council
	Fee Setting (when appropriate)	Full Council
Section 29	Duty to comply with requirement to provide information to Gambling Commission	Officers
Section 30	Functions relating to the exchange of information	Officers
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application for Premises Licence where no relevant representations received	Licensing Sub-Committee Officers
Section 162	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Officers in consultation with the Head of Service
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application to vary Premises Licence in respect of which no representation received	Licensing Sub-Committee Officers
Section 188	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn) Determination of application for transfer of Premises Licence where no representations received	Licensing Sub-Committee Officers
Section 193	Revocation of Premises Licence for failure to pay annual fee	Officers
Section 194	Determination that a Premises Licence has lapsed	Officers
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn) Reinstatement of lapsed Premises Licence where no representation is received	Licensing Sub-Committee Officers
Section 198	Rejection of application for review of Premises Licence on various grounds	Officers in consultation with Head of Service
Section 200	Initiation of review of Premises Licence	Officers
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Officers in consultation with Head of Service

Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) Determination of application for provisional statement in respect of which no representations received	Licensing Sub-Committee  Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with Head of Service
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Issue of counter notice in response to Temporary Use Notice	Licensing Sub-Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 304	Power to designate officer of a Licensing Authority as an authorised person for a purpose relating to premises	Officers
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with Head of Service
Schedule 10		
Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Director of Regeneration and Communities (or in his absence the Head of Housing & Community Services) (Refusal to be exercised only in consultation with Head of Service)
Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with Head of Service
Schedule 11		
Paragraph 44	Registration of society for small society lottery	Officers
Paragraph 48	Refusal of application for registration of society for small society lottery	Officers in consultation with Head of Service
Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with Head of Service
Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers
Schedule 12		
Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn) Determination of application for Club	Licensing Sub-Committee  Officers

	Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	
Paragraph 15	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)  Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations	Licensing Sub-Committee  Officers
Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Sub-Committee
Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13		
Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Head of Service)
Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Sub-Committee
Paragraph 17	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received  Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers  Officers
Schedule 14		
Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation with Head of Service)
Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

## Appendix 5

### LIST OF CONSULTEES

**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**

**Town Centre Management**

**Environment Agency**

**British Waterways Board**

**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.**

**SUMMARY OF GAMING MACHINES BY PREMISES**

**Appendix 6**

Premises type	Machine category							
	A	B1	B2	B3	B3A	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)							
Small casino (machine/table ratio of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)							
Pre-2005 Act casino (no machine/table ratio)	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead							
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D							
Bingo premises					Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Adult gaming centre					Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Family entertainment centre (with premises licence)							No limit on category C or D machines	
Family entertainment centre (with permit)							No limit on category D machines	
Clubs or miners' welfare institute (with permits)					Maximum of 3 machines in categories B3A or B4 to D*			
Qualifying alcohol-licensed premises							1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)							Number of category C D machines as specified on permit	
Travelling fair							No limit on category D machines	
	A	B1	B2	B3	B3A	B4	C	D

1 Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight<sup>107</sup> category B gaming machines, or 20% of the total number of gaming machines, whichever

is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

2. Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.
3. Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
4. Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.
5. Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

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## Appendix 7

### SUMMARY OF MAXIMUM STAKE AND MAXIMUM PRIZE BY CATEGORY OF GAMING MACHINE.

Category	Maximum stake	Maximum prize
<b>B1</b>	£5	£10,000*
<b>B2**</b>	£100	£500
<b>B3</b>	£2	£500
<b>B3A</b>	£2	£500
<b>B4</b>	£2	£400
<b>C</b>	£1	£100
<b>D non-money prize (not crane grab)</b>	30p	£8
<b>D non-money prize (crane grab)</b>	£1	£50
<b>D money prize</b>	10p	£5
<b>D combined money and non-money prize (coin pusher/penny falls)</b>	20p	<b>£20</b> (of which no more than <b>£10</b> may be a money prize)
<b>D combined money and non-money prize (other than coin pusher or penny falls)</b>	10p	<b>£8</b> (of which no more than <b>£5</b> may be a money prize)

## Appendix 8

# STATEMENT OF PRINCIPLES FOR UNLICENSED FAMILY ENTERTAINMENT CENTRES, GAMING MACHINE PERMITS & PRIZE GAMING PERMITS GAMBLING ACT 2005

## Contents

1. The Gambling Act 2005
2. Purpose of this document
3. Unlicensed Family Entertainment Centres (UFECs)
4. Prize Gaming Permits
5. Statement of Principles for UFEC gaming machine permits and prize gaming permits
6. Supporting documents
7. Child Protection Issues
8. Protection of Vulnerable Persons
9. Miscellaneous Matters

### **1. The Gambling Act 2005**

Unless otherwise stated any references in this document to the Council is to Maidstone Borough Council as the Licensing Authority.

The Act requires the Council, as the Licensing Authority, to aim to permit the use of premises for gambling in so far as the authority thinks it:

- In accordance with a relevant code of practice,
- In accordance with any relevant Guidance issued by the Gambling Commission,
- Reasonably consistent with the licensing objectives, and
- In accordance with the Licensing Authority policy issued under 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.

## **2. Purpose of this document**

This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC) gaming machine permit or a prize gaming under the Gambling Act 2005.

Maidstone Borough Council fully endorses the licensing objectives detailed above and expects all applicants to work in partnership to promote these objectives through clear and effective management of each gambling operation whether in respect of a permit or premises licence.

In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with Maidstone Council Statement of Licensing Policy and Principles. – Gambling Act 2005.

The purpose of the document is to clarify measures that the Council will expect applicants to demonstrate when applying for either of these permits so the Council can determine the suitability of the applicant and the premises for a permit.

Within this process the Council will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit, and
- They have considered and are proposing suitable measures to promote the licensing objectives and they have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this document should be read as guidance only and the Council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## **3. Unlicensed Family Entertainment Centres**

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines together with various other amusements such as computer games and "penny-pushers".

The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' that does require a premises licence because it contains both category C and D gaming machines.

Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. The Council will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.

In line with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. (Permits are granted for a period of ten years.)

#### **4. Prize Gaming Permits**

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where bingo is offered and the prizes are displayed.

A prize gaming permit is a permit issued by the Council to authorise the provision of facilities for gaming with prizes on specified premises.

Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permits holders must comply. 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

In line with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. Permits are granted for a period of ten years.

#### **5. Statement of Principles for UFEC gaming machine permits and prize gaming permits**

#### **Supporting documents**

The Council will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over);
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document;
- An enhanced criminal record certificate. (This should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission a plan of the premises to which the permit is sought showing the following items:

- The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. Slot machines, penny falls, cranes)
- The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
- The positioning and types of any other amusement machines on the premises
- The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area the location of any ATM/cash machines or change machines the location of any fixed or temporary structures such as columns or pillars
- The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- The location of any public toilets in the building.

(Unless agreed with the Council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100)

## **6. Child Protection Issues**

The Council 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 Council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- Employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- Display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- Maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises (The register should be used to detect any trends which require attention by the management of the premises.)
- Ensure all young children are accompanied by a responsible adult
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

## **7. Protection of Vulnerable Persons.**

The Council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons.

The Council will assess these policies and procedures on their merits; however they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

## **8. Miscellaneous Matters**

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the interior and exterior of the premises clean and tidy
- Ensure the external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths
- Restrict normal opening hours to 8.45am to midnight daily
- Not permit any person who is drunk and disorderly or under the influence of drugs, to enter or remain on the premises
- Take such steps as are reasonably practicable to eliminate the escape of noise from the premises
- Ensure, where possible the external doors to the premises remain closed, except when in use, by fitting them with a device for automatic closure or by similar means
- Ensure that the premises are under the supervision of at least one responsible, adequately trained person at all times the premises are open

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

Applicants may obtain an enhanced Disclosure Barring Service disclosure on application to Disclosure Scotland on 0870 609 6006 or online at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

# Guidance on Undertaking Local Gambling Risk Assessments

Gambling Act 2005

September 2016

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## Contents

	Page
<b>1. Introduction</b>	<b>4</b>
<b>2. Background</b>	<b>6</b>
<b>3. Risk assessment triggers</b>	<b>9</b>
3.2 New premises	9
3.3 Significant changes in local circumstances	9
3.6 Significant changes to the premises	10
3.9 Variation of the premises licence	11
3.12 Regular review of risk assessments	11
<b>4. Local risk and control measures</b>	<b>12</b>
4.6 Local area risks	12
4.8 Gambling operational risks	13
4.11 Premises design risks	13
4.13 Interior design risks	14
4.15 Exterior design risks	14
4.16 Control measures	14
4.20 Licence conditions	15
<b>5. Undertaking a local risk assessment</b>	<b>16</b>
5.2 Who should undertake the assessment	16
5.3 Step 1: The local area	16
5.7 Step 2: The gambling operation	17
5.8 Step 3: The design of the premises	17
5.9 Step 4: Control measures	18
5.10 Completed assessments	18
Annex A Maidstone Borough Council's Local Gambling Risk Assessment Template	19

## 1. Introduction

- 1.1 The Gambling Commission (the Commission) has introduced new provisions in its social responsibility code within the [Licence Conditions and Codes of Practice \(LCCP\)](#), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- 1.2 The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that Maidstone has been doing for a number of years. We have found that a risk-based approach to regulation enables the authority to prioritise resources where they are most needed and can be most effective.
- 1.3 The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 1.4 Maidstone Borough Council (the Council) has developed this guidance to assist gambling operators in undertaking and preparing their local (premises) risk assessments. This guidance provides a framework for the local risk assessment process that will provide a uniform approach across all non-remote gambling sectors. This will benefit the Council as Licensing Authority under the Gambling Act 2005 (the Act), as well as responsible authorities and interested parties when considering new and variation applications. The local risk assessments will also enable the Council to establish a more progressive compliance inspection regime.
- 1.5 Gambling operators will be required to undertake a risk assessment for all of their existing premises by 6 April 2016. Following that date operators must also undertake a review of those assessments when certain triggers are met. These triggers, along with the Council's views on what would instigate either a new assessment or the review of an existing one are detailed within this guidance document.
- 1.6 The Council considers that these local risk assessments are a key component of the overall assessment and management of the local risks. The Council will assist operators in this process by providing specific information on its concerns surrounding gambling within the Borough and the impact that premises can have on the licensing objectives. This will be contained within its Statement of Licensing Principles.

- 1.7 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

## 2. Background

- 2.1 Maidstone Borough Council is a Licensing Authority under the Act. The Licensing Authority is responsible for considering and determining applications for premises licences which offer gambling facilities within Maidstone. The Licensing Authority also has a role in gambling regulation by ensuring compliance with the Act.
- 2.2 The Act contains three licensing objectives which guide the way that the Licensing Authority performs its functions and the way that gambling operators carry on their activities. They are:
- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
  - (b) ensuring that gambling is conducted in a fair and open way.
  - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.3 The Act places a legal duty on the Licensing Authority to aim to permit gambling in so far as it thinks it reasonably consistent with the licensing objectives. The effect of this duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers where appropriate, for example to attach conditions to licences to moderate their impact on the licensing objectives, rather than by setting out to prevent gambling altogether.
- 2.4 The Licensing Authority will set out how it intends to carry out its functions under the Act in its Statement of Licensing Principles, also known as Licensing Policy. This statement is kept under review and is updated every three years (as a minimum).
- 2.5 The Commission is responsible for issuing operating licences to gambling operators who are deemed suitable and competent to provide facilities for gambling. As a requirement of these operating licences operators must ensure that they comply with and meet the requirements of the LCCP.
- 2.6 Although gambling is a legal entertainment activity it can, in some locations have a negative impact on individuals and the wider community. The Council has been very active in trying to understand how gambling can affect its residents and visitors. The Council has also been looking to identify individuals who live in the local area who are potentially vulnerable to gambling related harm.
- 2.7 In February 2015, following substantial consultation with relevant stakeholders the Commission introduced a new social responsibility code provision making it a requirement for certain gambling operators to assess the local risks to the

licensing objectives posed by each of their premises based gambling operations. The Commission also introduced an ordinary code provision relating to sharing local risk assessments. The relevant provisions of the code state:

**Social responsibility code provision 10.1.1**

**Assessing local risk**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.**

***This provision comes into force on 6 April 2016***

- 1 Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
- 2 Licensees must review (and update as necessary) their local risk assessments:
  - a to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of
  - b licensing policy;
  - c when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - d when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

**Ordinary code provision 10.1.2**

**Sharing local risk assessments**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences**

***This provision comes into force on 6 April 2016***

- 1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

- 2.8 These code provisions come into effect on 6 April 2016. As a result, all premises that provide facilities for gambling within Maidstone must be assessed to identify the local risks posed by the provision of gambling facilities in their respective locations. This guidance will assist operators in complying with these code provisions.

### **3. Risk assessment triggers**

- 3.1 The local risk assessment code provisions provide a number of triggers for when a new assessment is required and for when an existing one requires review. This section sets out the Licensing Authority's views on what these triggers are and when operators should provide a copy of their assessments to the Licensing Authority.

#### **New premises**

- 3.2 If an operator intends to apply for a new premises licence under Part 8 of the Act then a local risk assessment must be carried out. That assessment should be based on how the premises are proposed to operate at the premises location and must take into account the local area. The completed assessment should be provided with the application for a new premises licence upon submission to the Licensing Authority.

#### **Significant changes in local circumstances**

- 3.3 Operators are required to review their local risk assessment if significant changes in local circumstances occur. Changes to local circumstances happen frequently and can be either temporary or permanent depending on the change, how long that change will remain in place and how it affects the local area. However, the requirement for review of the risk assessment is only applicable when that change is significant.
- 3.4 The following lists sets out some examples of what the Licensing Authority considers to be significant changes in local circumstances:
- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Statement of Licensing Principles.
  - Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket or a new office building is constructed nearby.
  - Any new pay day loan or pawn brokers open in the local area
  - Changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises or where London Underground services to a local station are extended later into the evening.
  - Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment.
  - The local area is identified as a crime hotspot by the police and/or Licensing Authority.
  - Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling

premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area).

- A new gambling premises opens in the local area.

3.5 The list above is not an exhaustive list of significant changes in local circumstances. The Licensing Authority will provide information to gambling operators when it feels a significant change has occurred in the local area. The Licensing Authority will set out what that change is and may provide information on any specific concerns it may have that should be considered by operators. However, operators must also consider what is happening in their local areas and it is their responsibility to identify significant changes which may require a review and possibly an amendment to their risk assessment. A significant change can be temporary and any temporary changes should be considered and adjustments made to the local risk assessment if necessary.

### **Significant changes to the premises**

3.6 From time to time operators will undertake a refresh of the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

3.7 The following list sets out some examples of what the Licensing Authority considers to be significant changes to the premises (some of which may also require a variation to the existing premises licence). As with the examples of significant changes in local circumstances set out above, the following list is not an exhaustive list of significant changes to premises - operators must consider whether any change that they are proposing to their premises is one that may be considered significant.

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.

- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol or to provide sexual entertainment on the premises.

3.8 The Licensing Authority will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

#### **Variation of the premises licence**

3.9 Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.

3.10 When preparing an application to vary the premises licence the operator must undertake a review of the local risk assessment and update it if necessary. Operators submitting a variation application to the Licensing Authority should provide a copy of the reviewed local risk assessment when submitting the application.

3.11 If an operator wishes to vary a converted casino premises licence from one premises to another then a new risk assessment will be required for that new premises and a copy of that assessment must be submitted to the Licensing Authority with the application form.

#### **Regular review of risk assessment**

3.12 As a matter of best practice the Licensing Authority recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.

#### **4. Local risks and control measures**

- 4.1. There are two specific parts to the risk assessment process, the assessment of the local risks and the determination of appropriate mitigation to reduce those risks.
- 4.2 The risks that operators must identify relate to the potential impact a gambling premises and its operation may have on the licensing objectives. The gambling operator will be expected to identify and list all of the local risks within the assessment. The level of such risks can range from being low to very high depending on the potential impact they can have on the licensing objectives. The level of any given risk will have a direct impact on the type and extent of the control measures necessary to mitigate such risk.
- 4.3 This process is not new to gambling operators as they are already undertaking elements of this assessment, albeit in a far less formalised way. Operators will already be assessing locations when looking for new sites or when reviewing the performance of their premises. The design of premises is also assessed to ensure that they will meet the needs of the gambling operation, will provide protection for staff and customers; and will have facilities for recording crime. Operators will also have implemented policies and procedures for the operation of premises in line with statutory and other regulatory requirements placed upon them by the Commission and other agencies.
- 4.4 Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.
- 4.5 This local risk assessment process, although similar requires a much broader range of considerations when identifying local risk. Operators must consider the local area in which the premises are situated, the gambling operation and the premises both internally and externally.

#### **Local area risks**

- 4.6 There are a number of factors relating to the local area that operators will need to consider which is independent of who the operator believes is their target market. A few examples of these factors are listed below:
  - The types of premises and their operation in the local area surrounding these premises
  - The footfall in the local area, for example, does it predominately comprise residents, workers or visitors, is it a family orientated area, popular with children and young people.
  - Transport links and parking facilities.
  - Educational facilities.

- Community centres.
- Hospitals, mental health or gambling care providers.
- Homeless or rough sleeper shelters, hostels and support services.
- The ethnicity, age, economic makeup of the local community.

4.7 The local area will be different depending on the premises and the size of its operation. For example a casino may have a wider catchment area than a neighbourhood betting shop as the casino attracts customers from further afield.

### **Gambling operational risks**

4.8 The gambling operation relates to how the premises will be or is run. This will include the operator's policies and procedures which have been put in place to meet the requirements of the business, the Act and/or specific code provisions within the LCCP. It will also include other elements such as:

- the gambling products it provides in the premises.
- the facilities to enable gambling within premises.
- marketing material within premises.
- standard shop fixtures and their design.
- security and crime prevention arrangements.
- shop displays and provision of information to customers.
- staffing levels.
- Loyalty cards.

4.9 It is likely that the identification of risks associated with this element of the assessment will be very similar for all premises with slight variations depending on any specific factors that relate to the premises or the local area.

4.10 The control measures that operators will put in place to mitigate any risk associated with the gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

### **Premises design risks**

4.11 The design of the premises is an extremely important factor when considering local risks. For example, premises which are located within an area which has a high number of children and young people present throughout the day may identify that their standard external design means that children and young people can see into the premises and see gambling taking place. The appropriate mitigation in this case may be for the operator to amend the premises design by installing a screen or by covering the windows to obscure the interior of the premises. Such changes would be considered as control measures to mitigate the risk of attracting children to gambling.

- 4.12 As part of the design process, the layout of the premises is a major consideration as poorly conceived design may create significant risks to one or more of the licensing objectives.

### **Interior design risks**

- 4.13 The internal design and layout will reflect the premises operation and the type of gambling facilities that it offers. For some premises the design will be subject to certain limitations due to mandatory conditions on the gambling premises licence, such as the distance between gaming tables and other gambling facilities in casinos, and restrictions on the location of ATM's.
- 4.14 Operators will need to assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

### **Exterior design risks**

- 4.15 The exterior of premises will be a major advertisement for the gambling operator. However, the design will need to be assessed based on the associated risk. Operators will identify the risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

### **Control measures**

- 4.16 Depending on the nature of the risk factors, the control measures identified to mitigate the perceived risk may be a combination of systems, design and physical measure. Control measures that relate to systems will be measures that have been put in place through policies and procedures. These can either be systems that apply to all of the operator's premises or systems that have been developed specifically for particular premises to deal with a specific local risk factor. System control measures will include staff training, security policies and procedures. They may also relate to having security personnel on entrances, implementing membership criteria and/or providing support to local vulnerable groups through financial or other means.

- 4.17 Design control measures are measures that are built into the design of the premises. These can include the location of gambling facilities and the design and location of cashier counters within the premises, and the exterior design of premises. For example, a control measure for the interior of the premises could involve moving a cashier counter from the rear of the premises to the front next to the main entrance. An external design control measure may involve the exterior design being tailored to address local risks, for example, more open window displays to enable staff to see out of the premises or a design to avoid attracting children to the premises.
- 4.18 The final control measures relate to specific physical measure that will address an identified risk factor. These physical control measures may, for example, include alarms, CCTV cameras, doors, magnetic locks, time locks on safes, spit kits, window shutters, fogging systems, UV lights in toilets.
- 4.19 As aforesaid, the control measures identified to mitigate a perceived risk may involve a combination of systems, design and physical measures. For example to address the risk factors relating to children gaining access to an over 18 restricted gambling premises, the operator may identify the following control measures:

Systems: PASS card or age verification policies, challenge 21 scheme, staff training and door staff.

Design: Exterior design which will not attract children into the premises, the entrance layout will enable staff and security to watch those entering the premises and challenge them on the grounds of age.

Physical: Magnetic door locks and ID scans.

### **Licence conditions**

- 4.20 As set out in the code provisions, applications for new premises licences and for variations to existing licences will require a local risk assessment. The control measures specified in these risk assessments may be incorporated into the new or varied premises licences through the imposition of appropriate conditions. The Licensing Authority, within its Statement of Licensing Principles for Gambling, has provided a pool of model conditions which operators can review and choose to address specific risks depending on the results of their assessment. The Statement of Licensing Principles also sets out within its policies specific conditions from that pool that may be suitable to address certain potential impacts on the licensing objectives. Operators are encouraged to use this pool of conditions in formulating appropriate control measures to mitigate risks to the licensing objectives identified in their local risk assessments.

## **5. Undertaking a local risk assessment**

- 5.1 A local risk assessment of gambling premises should be carried out through a step-by-step approach. The approach that the Licensing Authority suggests is to first assess the local area and identify the relevant risk factors, then to assess the gambling operation, and finally to assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented. To assist, the Licensing Authority has developed a local risk assessment form that encompasses the step-by-step approach to the assessment (See Annex A). The form also enables the assessor to identify actions such as the installation or production of control measures, the individual made responsible for carrying out those actions, and to record when those actions were completed.

### **Who should undertake the assessment**

- 5.2 It will be the responsibility of the gambling operator to assign the assessor for assessing the local risks for their premises. The person assigned as the assessor must be competent to undertake this role as failure properly to carry out this function could result in a breach of the provisions of the LCCP. The assessor must understand how the premises operate or will operate, its design, and where it is located. The assessor will need to understand the local area and can use staff or area managers to assist in gaining an understanding of that local area.

### **Step 1: The local area**

- 5.3 Operators will be expected to identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important.
- 5.4 To assist in assessing the local area the Licensing Authority has produced a Local Area Profile within its Statement of Licensing Principles. The Local Area Profile sets out the demographic profile of areas of the Borough, and the specific concerns and risks that the Licensing Authority has identified in relation to gambling in those areas.
- 5.5 The first step is to identify the local risk factors associated with the local area in which the premises are located. Local risk factors are risks that affect one or more of the licensing objectives. The Licensing Authority Statement of Principles will identify some of these risk factors which are considered to be of significance for areas of the Borough.
- 5.6 The list below is a small example of some of the risk factors that may be present in an area where gambling premises are located:

- The types of premises and their operation in the local area surrounding these premises
- The footfall in the local area, for example, does it predominately comprise residents, workers or visitors, is it a family orientated area, popular with children and young people.
- Transport links and parking facilities.
- Educational facilities.
- Community centres.
- Hospitals, mental health or gambling care providers.
- Homeless or rough sleeper shelters, hostels and support services.
- The ethnicity, age, economic makeup of the local community.
- significant presence of young children
- high crime area
- high unemployment area
- nearby alcohol or drug support facility
- pawn broker/pay day loan businesses in the vicinity.
- other gambling premises in the vicinity.

### **Step 2: The gambling operation**

5.7 In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk. The assessor may wish to consider:

- how the gambling operation will relate to how the operator conducts its business
- what gambling products it provides in the premises
- the facilities to enable gambling within the premises
- the staffing levels within the premises
- the level and requirement for staff training
- whether loyalty or account cards are used or not
- the policies and procedures it has in place in relation to regulatory requirements of the Act or to comply with the LCCP
- the security and crime prevention arrangements it has in place
- how it advertises locally and on the premises
- the marketing material within the premises
- the display and provision of information, etc.

### **Step 3: The design of the premises**

5.8 The design and layout of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted. For example:

- the premises may have a number of support pillars which the assessor identifies as obstructing the view of the gaming machines from the cashier counter
- the assessor may identify that the design of the entrance to the casino is not sufficiently covered by CCTV to enable the identification of offenders.
- premises which are located within an area which has a high number of children and young people present throughout the day, may identify that their standard external design means that children and young people can see into the premises and see gambling taking place
- if a premises has a large amount of glass frontage in an area prone to criminal damage, the assessor may consider the risk of damage to the standard toughened glass to be high

These would be identified risk factors that would need to be documented.

#### **Step 4: Control measures**

- 5.9 Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

#### **Completed assessment**

- 5.10 The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime (see part 3 above).
- 5.11 The Licensing Authority will assess the risks identified and the measures implemented to mitigate those risks. When a completed assessment is provided with a new application or with a variation application, the authority will consider the assessment in the course of determining whether to grant the application or not. Some control measures identified in the assessment may be put forward as conditions to be attached to the licence to address any significant local concern

## Annex A

## Local Gambling Risk Assessment

<b>Premises Name:</b>		<b>Premises Licence Number (If Applicable):</b>	
<b>Premises Address:</b>			
		<b>Post Code:</b>	
<b>Category of gambling premises licence:</b>			
<b>Name of person completing the assessment:</b>			
<b>Date original assessment carried out:</b>			
<b>Notes:</b>			

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

**Risks:** Area of consideration that may impact on one or more of the licensing objectives

**Local Risks:** These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

**Licensing Objectives:** these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

**Control Measures:** These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

For further guidance on completing this assessment of when this assessment must be reviewed, please refer to Maidstone Borough Council's Guidance on Undertaking Gambling Local Risk Assessments

<b>1: Local Area</b>			
<b>No</b>	<b>Local Risks:</b>	<b>Licensing objective(s) at risk: (CD, FO or CV)</b>	<b>Control Measures</b>
1.1			<b>Systems</b>
			<b>Design</b>
			<b>Physical</b>
1.2			<b>Systems</b>
			<b>Design</b>
			<b>Physical</b>
1.3			<b>Systems</b>

69

			<p></p> <p><b>Design</b></p> <p></p> <p><b>Physical</b></p> <p></p>
<p>1.4</p> <p>70</p>			<p><b>Systems</b></p> <p></p> <p><b>Design</b></p> <p></p> <p><b>Physical</b></p> <p></p>

<b>2: Gambling Operation</b>			
<b>No</b>	<b>Local Risks:</b>	<b>Licensing objective(s) at risk: (CD, FO or CV)</b>	<b>Control Measures</b>
2.1			<b>Systems</b>  <b>Design</b>  <b>Physical</b>  
2.2			<b>Systems</b>  <b>Design</b>  <b>Physical</b>  
2.3			<b>Systems</b>  

			<table border="1"> <tr> <td data-bbox="1155 94 2107 172"><b>Design</b></td> </tr> <tr> <td data-bbox="1155 172 2107 280"></td> </tr> <tr> <td data-bbox="1155 280 2107 320"><b>Physical</b></td> </tr> <tr> <td data-bbox="1155 320 2107 427"></td> </tr> </table>	<b>Design</b>		<b>Physical</b>			
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<p>2.4</p> <p>72</p>			<table border="1"> <tr> <td data-bbox="1155 427 2107 467"><b>Systems</b></td> </tr> <tr> <td data-bbox="1155 467 2107 576"></td> </tr> <tr> <td data-bbox="1155 576 2107 616"><b>Design</b></td> </tr> <tr> <td data-bbox="1155 616 2107 724"></td> </tr> <tr> <td data-bbox="1155 724 2107 764"><b>Physical</b></td> </tr> <tr> <td data-bbox="1155 764 2107 869"></td> </tr> </table>	<b>Systems</b>		<b>Design</b>		<b>Physical</b>	
<b>Systems</b>									
<b>Design</b>									
<b>Physical</b>									

<b>3: Premises Design (Internal and External)</b>			
<b>No</b>	<b>Local Risks:</b>	<b>Licensing objective(s) at risk: (CD, FO or CV)</b>	<b>Control Measures</b>
3.1			<b>Systems</b>  <b>Design</b>  <b>Physical</b>  
3.2			<b>Systems</b>  <b>Design</b>  <b>Physical</b>  
3.3			<b>Systems</b>  

74			<b>Design</b>	
			<b>Physical</b>	
	3.4			<b>Systems</b>
				<b>Design</b>
			<b>Physical</b>	

**Actions following assessment:**

**Local Area:**

Action	Person/Dept tasked	Date tasked	Date completed

**Gambling Operation**

Action	Person/Dept tasked	Date tasked	Date completed

<b>Premises Design (Internal and External)</b>			
<b>Action</b>	<b>Person/Dept tasked</b>	<b>Date tasked</b>	<b>Date completed</b>

<b>Signed:</b>		<b>Date:</b>	
<b>Print Name:</b>			

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**Mandatory, Default and Maidstone Borough  
Council's Pool of Model Conditions for Gambling  
Premises Licences**

Gambling Act 2005

September 2016

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# Contents

	<b>Page No</b>
<b>1. Introduction</b>	<b>5</b>
<b>2. Mandatory Conditions</b>	<b>7</b>
2.4 Converted Casinos	7
2.5 Bingos	9
2.6 Betting Tracks	11
2.7 Betting (Other)	15
2.8 Adult Gaming Centres	17
2.9 Family Entertainment Centres	18
<b>3. Default Conditions</b>	<b>20</b>
3.4 Converted Casinos	20
3.5 Bingos	20
3.6 Betting Tracks	20
3.7 Betting (Other)	21
<b>4. Model Conditions</b>	<b>22</b>
4.7 Hours	22
4.8 CCTV	23
4.9 Door Supervision	24
4.10 Children and Young People	25
4.11 Documents Provided to the Licensing Authority	26
4.12 Entrances and Doors	26
4.13 Staffing Levels	26
4.14 Cashier Counters and Safe Havens	27
4.15 Identification of Offenders and Problem Persons	27
4.16 Seating	27
4.17 Alarms (Premises and Personal)	28
4.18 Toilets	28

4.19	Restrictions on Food and Beverages	29
4.20	Signage, Promotional Material and Notices	29
4.21	Enticement Promotions	30
4.22	Staff Training	30
4.23	Recording of Incidents and Visits	31
4.24	Customer Bags and Belongings	31
4.25	Homeless and Street Drinking	31
4.26	Police Reporting Protocols and Crime Prevention	31
4.27	ATM's	32
4.28	Gaming Machines and SSBT's	32
4.29	Multiple Storey Venues	33

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## 1. Introduction

- 1.1 Maidstone is the Licensing Authority under the Gambling Act 2005 (the Act). The Licensing Authority is responsible for considering and determining applications for premises licences which offer gambling facilities within Maidstone. The Licensing Authority also has the role of ensuring compliance with the terms and conditions of the licences.
- 1.2 The Act contains three licensing objectives which guide the way that the Licensing Authority performs its functions and the way that gambling operators carry on their activities. They are:
  - (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
  - (b) ensuring that gambling is conducted in a fair and open way.
  - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3 The Act places a legal duty on the Licensing Authority to aim to permit gambling in so far as it thinks it reasonably consistent with the licensing objectives. The effect of this duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers, for example to attach conditions on licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.
- 1.4 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 impose conditions on each category of gambling premises licence under the Act. For ease of reference and to provide a concise document which contains all of the relevant conditions, the Licensing Authority has included the mandatory and default conditions in parts 2 and 3 of this document.
- 1.5 The Licensing Authority has developed a pool of Model Conditions in Part 4 of this document to assist gambling operators, responsible authorities and interested parties when considering conditions to deal with specific issues and concerns. These conditions will also encourage a consistent approach to the drafting and imposition of conditions on premises licences.
- 1.6 Gambling operators will identify measures that mitigate the risk to harming the licensing objectives in their local risk assessment for each specific premises. The model conditions will assist prospective and existing licence holders to identify and select specific conditions that would cement these proposed measures within the regulatory framework.
- 1.7 Once an application has been made, responsible authorities and interested parties are encouraged to engage with the applicant if they are considering making a representation to their application. This will enable discussions about their concerns and the ability to agree specific conditions to address them.

- 1.8 The model conditions within this document are not an exclusive or exhaustive list of conditions which may be included on a premises licence. It does not restrict any applicant, responsible authority, or other interested parties from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on the grant of a licence it considers appropriate so as to aim to permit gambling under section 153 of the Act.
- 1.9 This is the first edition of the Mandatory, Default and Maidstone Model Conditions for Gambling Premises Licences that we have produced. We will continue to update this document and publish it on our website at [www.maidstone.gov.uk](http://www.maidstone.gov.uk)
- 1.10 If you have any comments relating to this documents content and use please contact the Licensing Team on 01622 602028 or email [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk).

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## 2. Mandatory Conditions

2.1 Mandatory conditions are conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (2007 Regs). The mandatory conditions for each category of premises licences are listed below as conditions with Maidstone Borough Council's own condition reference. The specific regulation, schedule, part and paragraph where those conditions are located within the 2007 Regs is available to the right of each of the mandatory conditions.

2.2 These mandatory conditions are applied to the relevant category of premises licence and cannot be removed or varied in anyway.

2.3 Where a mandatory condition, as specified within the 2007 Regs refers to a paragraph that is a separate condition within that part of the schedule we have replaced that paragraph number with the relevant Maidstone Borough Council's condition reference so it is clear which condition is being referred to.

### 2.4 Converted Casinos

CCM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
CCM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
CCM03	The premises shall not be used for—  a) the sale of tickets in a private lottery or customer lottery, or b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.	Reg 3(4)
CCM04	The principal entrance to the premises shall be from a street.	Reg 4, Sch 1, Part 1, Para 1(1)
CCM05	No entrance to the premises shall be from premises that are used wholly or mainly by children, by young persons, or by both.	Reg 4, Sch 1, Part 1, Para 1(2)
CCM06	No customer shall be able to enter the premises directly from any other premises in respect of which a licence	Reg 4, Sch 1,

	issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect	Part 1, Para 1(3)
CCM07	A gap of at least 2 metres shall be maintained between any ordinary gaming table and any other equipment, apparatus or structure used by a person to gamble on the premises.	Reg 4, Sch 1, Part 1, Para 2
CCM08	No more than 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.	Reg 4, Sch 1, Part 1, Para 3
CCM09	<p>(1) The rules of each type of casino game that is available to be played on the premises shall be displayed in a prominent place within both the table gaming area and other gambling area of the premises to which customers wishing to use facilities for gambling have unrestricted access.</p> <p>(2) The condition in sub-paragraph (1) may be satisfied by—</p> <ul style="list-style-type: none"> <li>a) displaying a clear and legible sign setting out the rules; or</li> <li>b) making available to customers leaflets or other written material containing the rules.</li> </ul>	Reg 4, Sch 1, Part 1, Para 4
CCM10	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming table, gaming machine or betting machine in order to do so.	Reg 4, Sch 1, Part 1, Para 5
CCM11	A notice shall be displayed in a prominent place at every entrance to the premises stating that no person under the age of 18 years is permitted to enter the premises.	Reg 8, Sch1, Part 5, Para 1
CCM12	<p>(1) This paragraph shall apply to premises which have a gambling area the floor area of which is no less than 200m<sup>2</sup>.</p> <p>(2) In determining the floor area of the gambling area, all areas in which facilities for gambling are provided on the premises shall be taken into account.</p> <p>(3) The premises shall contain a non-gambling area, the floor area of which is no less than 10% of the floor area of the gambling area.</p> <p>(4) The non-gambling area may consist of one or more</p>	Reg 8, Sch1, Part 5, Para 2

	<p>areas within the premises.</p> <p>(5) Lobby areas and toilet facilities may be taken into account in calculating the non-gambling area; but the non-gambling area shall not consist exclusively of lobby areas and toilet facilities.</p> <p>(6) Facilities for gambling shall not be provided in the non-gambling area.</p> <p>(7) At any time during which facilities for gambling are being provided on the premises, each separate area comprising the non-gambling area, other than the lobby areas and toilet facilities referred to in subparagraph (5), shall contain recreational facilities that are available for use by customers on the premises.</p>	
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## 2.5 Bingos

BIM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
BIM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
BIM03	<p>The premises shall not be used for—</p> <p>a) the sale of tickets in a private lottery or customer lottery, or</p> <p>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</p>	Reg 3(4)
BIM04	A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.	Reg 10, Sch2, Part 1, Para 1
BIM05	<p>No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect—</p> <p>a) a casino premises licence;</p> <p>b) an adult gaming centre premises licence;</p> <p>c) a betting premises licence other than a track premises licence; and</p>	Reg 10, Sch2, Part 1, Para 2

BIM06	<p>(1) This paragraph shall apply where children or young persons or both are permitted by the licence holder to enter the premises, and Category B or C gaming machines are made available for use on the premises.</p> <p>(2) Any area of the premises to which category B and C gaming machines are located—</p> <ul style="list-style-type: none"> <li>a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;</li> <li>b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and</li> <li>c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph (3).</li> </ul> <p>(3) The reference to supervision in this paragraph means supervision by—</p> <ul style="list-style-type: none"> <li>a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or</li> <li>b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.</li> </ul> <p>(4) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.</p>	Reg 10, Sch2, Part 1, Para 3
BIM07	<p>(1) 1) In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.</p> <p>(2) In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.</p> <p>(3) The notice in sub-paragraph (2) shall include the following information—</p> <ul style="list-style-type: none"> <li>a) the cost (in money) of each game card (or set of</li> </ul>	Reg 10, Sch2, Part 1, Para 4

	<p>game cards) payable by an individual in respect of a game of bingo;</p> <p>b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a participation fee for entitlement to participate in that game; and</p> <p>c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.</p> <p>(4) The notice may be displayed in electronic form.</p> <p>(5) A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning of “prize gaming”) applies.</p>	
BIM08	<p>(1) The rules of each type of game that is available to be played the premises other than games played on gaming machines shall be made available to customers within the premises.</p> <p>(2) The condition in sub-paragraph (1) may be satisfied by—</p> <p>a) displaying a sign setting out the rules,</p> <p>b) making available leaflets or other written material containing the rules, or</p> <p>c) running an audio-visual guide to the rules prior to any bingo game being commenced.</p>	Reg 10, Sch2, Part 1, Para 5
BIM09	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Reg 10, Sch2, Part 1, Para 6

## 2.6 Betting Tracks

BTM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
BTM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
BTM03	The premises shall not be used for—	Reg 3(4)

	<ul style="list-style-type: none"> <li>a) the sale of tickets in a private lottery or customer lottery, or</li> <li>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</li> </ul>	
BTM04	<p>No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect—</p> <ul style="list-style-type: none"> <li>a) a casino premises licence;</li> <li>b) an adult gaming centre premises licence.</li> </ul>	Reg 16, Sch 6, Part 1, Para 1
BTM05	A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises.	Reg 16, Sch 6, Part 1, Para 2
BTM06	The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.	Reg 16, Sch 6, Part 1, Para 3
BTM07	<p>The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets—</p> <ul style="list-style-type: none"> <li>a) will be operating under a valid operating licence; and</li> <li>b) are enabled to accept such bets in accordance with— <ul style="list-style-type: none"> <li>(i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or</li> <li>(ii) an authorisation under section 94 (horse-race pool betting operating licence) of that Act.</li> </ul> </li> </ul>	Reg 16, Sch 6, Part 1, Para 4
BTM08	The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.	Reg 16, Sch 6, Part 1, Para 5
BTM09	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.	Reg 16, Sch 6, Part 1, Para 6

Mandatory conditions attached to track premises in respect of premises that are horse-race courses

BTM10	<p>(1) This paragraph shall apply to converted track premises licences in respect of premises that are horse-race courses.</p> <p>(2) The licence holder shall ensure that in respect of any part of the track, which immediately before 1st September 2007 was made available for the purposes of complying with a condition imposed under section 13(2) of the 1963 Act (which provides for conditions to be imposed on a certificate under section 13 relating to the places which are to be provided for enabling betting to take place on the track), that part shall continue to be made available for the purposes of enabling betting operators and betting operators' assistants to use it for carrying on business in connection with providing facilities for betting.</p> <p>(3) Sub-paragraph (2) is without prejudice to any application under section 187 of the 2005 Act (application to vary a premises licence) to change the location of the part of the track to which that sub-paragraph applies.</p> <p>(4) Where such an application is granted, sub-paragraph (2) is to have effect as if it required the licence holder to ensure that the part of the track identified in the application as the new location for the area referred to in that sub-paragraph is made available for the purposes of enabling betting operators and betting operators' assistants to carry on business in connection with providing facilities for betting.</p> <p>(5) References in this paragraph to an "existing betting area" are to any part of the track which is required to be made available in accordance with the preceding provisions of this paragraph for the purposes of enabling betting operators and betting operators' assistants to carry on business in connection with providing facilities for betting.</p> <p>(6) The charge for admission to an existing betting area for the purposes of carrying on business in connection with providing facilities for betting shall not exceed—</p> <p style="padding-left: 40px;">a) where payable by a betting operator, five times the cost of the highest charge paid by members of the public who are authorised to</p>	Reg 16, Sch 6, Part 2, Para 1
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	<p>enter that part of the track; and</p> <p>b) where payable by a betting operator's assistant, the cost of the highest charge paid by members of the public who are authorised to enter that part of the track.</p> <p>(7) A betting operator or betting operator's assistant shall not be charged, for admission to an existing betting area, an amount which differs from that charged to any other betting operator or betting operator's assistant for admission to that part of the track.</p> <p>(8) No charges may be made to betting operators and betting operators' assistants who are admitted to the existing betting areas of the track, other than—</p> <p>a) the charge for admission in accordance with sub-paragraphs (6) and (7), and</p> <p>b) charges levied to cover costs reasonably incurred in connection with enabling betting operators and betting operators' assistants to operate in the existing betting area.</p> <p>(9) This paragraph shall not apply after 31st August 2012.</p>	
BTM11	<p>(1) This paragraph shall apply to all track premises licences in respect of premises that are horse-race courses.</p> <p>(2) The licence holder shall provide a place on the premises where betting operators and betting operators' assistants, including small-scale operators, may carry on business in connection with providing facilities for betting and to which the public may resort for the purpose of betting.</p> <p>(3) The reference in this paragraph to "small-scale operators" shall have the same meaning as prescribed in The Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.</p> <p>(4) This paragraph shall not apply to converted track premises licences before 1st September 2012.</p>	Reg 16, Sch 6, Part 2, Para 6
Mandatory conditions attached to track premises licences in respect of premises that are dog racing tracks		
BTM12	A totalisator on the premises shall only be operated—	Reg 16, Sch 6,

	<ul style="list-style-type: none"> <li>a) while the public are admitted to the premises for the purpose of attending dog races and no other sporting events are taking place on the premises; and</li> <li>b) for effecting with persons on the premises betting transactions on dog races taking place on the premises.</li> </ul>	Part 3, Para 1
BTM13	<p>(1) 1) At any time during which the totalisator is being lawfully used on the premises—</p> <ul style="list-style-type: none"> <li>a) no betting operator or betting operator’s assistant shall be excluded from the premises by reason only of the fact that he proposes to accept or negotiate bets on the premises; and</li> <li>b) there shall be made available on the premises space for betting operators and betting operators’ assistants where they can conveniently accept and negotiate bets in connection with dog races run on the premises on that day.</li> </ul> <p>(2) This paragraph is without prejudice to section 180 (pool betting on dog races) of the 2005 Act.</p>	Reg 16, Sch 6, Part 3, Para 2
BTM14	For the purposes of this Part, “totalisator” means the apparatus for betting known as the totalisator or pari mutuel, or any other machine or instrument of betting of a like nature, whether mechanically operated or not.	Reg 16, Sch 6, Part 3, Para 3

## 2.7 Betting (Other)

BOM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
BOM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
BOM03	<p>The premises shall not be used for—</p> <ul style="list-style-type: none"> <li>a) the sale of tickets in a private lottery or customer lottery, or</li> <li>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</li> </ul>	Reg 3(4)

BOM04	A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Reg 14, Sch 5, Part 1, Para 1
BOM05	(1) Access to the premises shall be from a street or from other premises with a betting premises licence.  (2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services.	Reg 14, Sch 5, Part 1, Para 2
BOM06	Subject to anything permitted by virtue of the 2005 Act, or done in accordance with conditions BOM07, BOM08, BOM09 and BOM10 below, the premises shall not be used for any purpose other than for providing facilities for betting.	Reg 14, Sch 5, Part 1, Para 3
BOM07	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.	Reg 14, Sch 5, Part 1, Para 4
BOM08	No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes—  a) communicating information about, or coverage of, sporting events, including—  (i) information relating to betting on such an event; and  (ii) any other matter or information, including an advertisement, which is incidental to such an event;  b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.	Reg 14, Sch 5, Part 1, Para 5
BOM09	No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.	Reg 14, Sch 5, Part 1, Para 6

BOM10	No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with BOM08	Reg 14, Sch 5, Part 1, Para 7
BOM11	(1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.  (2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.	Reg 14, Sch 5, Part 1, Para 8
BOM12	A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.	Reg 14, Sch 5, Part 1, Para 9

## 2.8 Adult Gaming Centres

AGM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
AGM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
AGM03	The premises shall not be used for—  a) the sale of tickets in a private lottery or customer lottery, or  b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.	Reg 3(4)
AGM04	A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	Reg 12, Sch 3, Para 1
AGM05	No customer shall be able to access the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.	Reg 12, Sch 3, Para 2
AGM06	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes	Reg 12, Sch 3,

	to use it to cease gambling at any gaming machine in order to do so.	Para 3
AGM07	<p>(1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.</p> <p>(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.</p>	Reg 12, Sch 3, Para 4

## 2.9 Family Entertainment Centres

FEM01	The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.	Reg 3(2)
FEM02	The layout of the premises shall be maintained in accordance with the plan.	Reg 3(3)
FEM03	<p>The premises shall not be used for—</p> <p>a) the sale of tickets in a private lottery or customer lottery, or</p> <p>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</p>	Reg 3(4)
FEM04	<p>No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect—</p> <p>a) a casino premises licence;</p> <p>b) an adult gaming centre premises licence;</p> <p>c) a betting premises licence other than a track premises licence.</p>	Reg 13, Sch 4, Para 1
FEM05	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.	Reg 13, Sch 4, Para 2
FEM06	<p>(1) Where Category C gaming machines are made available for use on the premises, any area of the premises in which those machines are located—</p> <p>a) shall be separated from the rest of the premises by a physical barrier which is</p>	Reg 13, Sch 4, Para 3

	<p>effective to prevent access other than by an entrance designed for the purpose;</p> <p>b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and</p> <p>c) shall be arranged in such a way so as to permit all parts of the area to be observed by the persons mentioned in sub-paragraph (2).</p> <p>(2) The reference to supervision in this paragraph means supervision by—</p> <p>a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or</p> <p>b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.</p> <p>(3) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category C gaming machines are made available for use.</p>	
FEM07	<p>(1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.</p> <p>(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.</p>	Reg 13, Sch 4, Para 4

### 3. Default Conditions

3.1 Default conditions are conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (2007 Regs). The default conditions for each category of premises licences are listed below as conditions with Maidstone own condition reference. The specific regulation, schedule, part and paragraph where those conditions are located within the 2007 Regs is also included to the right of each condition.

3.2 These default conditions are applied to the relevant category of premises licence unless the applicant or licensee specifies that the default conditions are to be removed via a new application or a variation of an existing licence.

3.3 Where a default condition, as specified within the 2007 Regs refers to a paragraph that is a separate condition within that part of the schedule we have replaced that paragraph number with the relevant Maidstone reference so it is clear which condition is being referred to.

#### 3.4 Converted Casinos

CCD01	No facilities for gambling shall be provided on the premises between the hours of 6am and noon on any day.	Reg 9, Sch 1, Part 6
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#### 3.5 Bingos

BID01	Subject to BID02, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am.	Reg 11, Sch 2, Part 2, Para 1
BID02	The condition in BID01 shall not apply to making gaming machines available for use.	Reg 11, Sch 2, Part 2, Para 2

#### 3.6 Betting Tracks

BTD01	Subject to condition BTD02, no facilities for gambling shall be provided on the premises between the hours of 10pm on one day, and 7am on the next day.	Reg 17, Sch 6, Part 4, Para 1
BTD02	The prohibition in condition BTD01 does not apply on days when a sporting event is taking place on the premises, in which case gambling transactions may take place at any time during that day.	Reg 17, Sch 6, Part 4, Para 2

### 3.7 Betting (Other)

BOD01	No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.	Reg 15, Sch 5, Part 2
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## 4. Model Conditions

- 4.1 The following model conditions can be used by the applicant of a new premises licence, provisional statement or licensee varying their application. The applicant or licensee can select the conditions that they feel will enable them to demonstrate how they will ensure that the premises will operate so as not to impact one or more of the licensing objectives.
- 4.2 Gambling operators are recommended during their local risk assessment process to identify control measures, such as conditions to mitigate the impact on the licensing objectives by that premises. These model conditions can be selected to address the risk of impacts identified in these assessments.
- 4.3 These model conditions can also be used by responsible authorities or interested parties when making representations regarding applications submitted to the Licensing Authority. The Licensing Sub-Committee when determining applications will have regard to these conditions and may choose to add one or more conditions or variations of them depending on the concerns raised during the determination process.
- 4.4 The model conditions are not intended to be used as blanket conditions applied to each premises licence. It may appear from the list of model conditions are repetitive, however there are subtle differences so gambling operators; responsible authorities and interested parties are advised to find the most appropriate condition to mitigate the identified risk.
- 4.5 The model conditions set out in this section are not an exhaustive list and new or amended versions of model conditions can be produced to meet the specific requirements of that application.
- 4.6 The model conditions have been put under general topic headings to assist in identifying particular conditions that may address specific issues raised. By the side of each condition a reference to the relevant licensing objective that they relate is indicated. The codes used for the licensing objectives are:

- CD - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
- FO - ensuring that gambling is conducted in a fair and open way.
- CV - protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 4.7 Hours

GMC1	No facilities for gambling shall be provided on the premises between the hours of [insert time] on one day and [insert time] on the next day.	CD, FO & CV
GMC2	No facilities for gambling shall be provided on the premises between the hours of [insert time] and [insert time] on any	CD, FO

	day.	& CV
GMC3	The premises shall not provide gambling facilities between the hours of [insert time] and [insert time].	CD, FO & CV
GMC4	There shall be no admittance or re-admittance to the premises after [enter time].	CD & CV

#### 4.8 CCTV

GMC5	<p>The venue shall install and maintain a comprehensive CCTV system at the premises as per the minimum requirements of the Kent Police Licensing Officer. This system should cover:</p> <ul style="list-style-type: none"> <li>a) All entry and exit points to and from the premises enabling frontal identification of every person entering under any light conditions.</li> <li>b) The areas of the premises to which the public have access (excluding toilets)</li> <li>c) Gaming machines and the counter area</li> </ul> <p>The CCTV system shall continually record whilst the venue is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of thirty one days with date and time visible. Recordings shall be immediately arranged by a member of staff for handover to Police or authorised officer following their request..</p>	CD
GMC6	A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to arrange for Police to view recent data or footage with the absolute minimum of delay when requested.	CD
GMC7	There shall be [insert number] external cameras which will provide live images to staff in the service counter area.	CD
GMC8	Notices indicating that CCTV is in use at the premises shall be placed at or near the entrance to the premises and within the premises.	CD
GMC9	A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering exiting the premises.	CD

GMC10	<p>The licensee shall:</p> <ul style="list-style-type: none"> <li>a) provide training on the CCTV system and how to access the footage if requested to do so by the police or other authorised officers as part of the staff induction training programme or when the system is changed, and</li> <li>b) periodically provide refresher training to all of its staff working at these premises on the CCTV viewing process.</li> </ul> <p>Participation in this training shall be formally recorded on each member of staffs training records which, if requested will be presented to the Police or Licensing Authority as soon as practicable.</p>	
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#### 4.9 Door Supervision

GMC11	At least [enter number] SIA licensed door supervisors shall be on duty at every entrance and exit to the premises at all times whilst it is operating under this licence.	CD & CV
GMC12	A minimum of [insert number] SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.	CD & CV
GMC13	At least [insert number] SIA licensed door supervisors shall be on duty at every public entrance and exit of the premises at all times whilst it is open for business.	CD & CV
GMC14	[insert number] of SIA Licensed Door Supervisors are to be on duty at the premises during the whole of permitted hours	CD & CV
GMC15	No patrons shall be admitted or re-admitted to the premises after [enter time] unless they have passed through a metal detecting search arch and, if the search arch is activated or at the discretion of staff, then physically searched, which will include a 'pat down search' and a full bag search.	CD & CV
GMC16	All persons entering or re-entering the premises shall be searched by an SIA trained member of staff and monitored by the premises CCTV system.	CD & CV
GMC17	All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility	CD &

	yellow jackets or vests.	CV
GMC18	The licence holder shall ensure that the outside areas of the premises are monitored so as to ensure there is no crime, disorder, public nuisance or obstruction of the public highway.	CD & CV

#### 4.10 Children and Young People

GMC19	The Licensee shall maintain a bound and paginated 'Challenge [21/25 delete as appropriate] Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request.	CV
GMC20	Prominent signage and notices advertising the Challenge [21/25 delete as appropriate] will be displayed showing the operation of such policy	CV
GMC21	Third party testing on age restricted sales systems shall be carried out on the premises a minimum of [insert frequency] a year.	CV
GMC22	Third party testing on age restricted sales systems purchasing shall take at least [insert frequency] a year and the results shall be provided to the Licensing Authority upon request.	CV
GMC23	The licensee shall not allow their logos or other promotional material to appear on any commercial merchandising which is designed for use by children.	CV
GMC24	All tills shall automatically prompt staff to ask for age verification identification when placing a bet.	CV
GMC25	A Challenge [21/25 delete as appropriate] proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.	CV
GMC26	The licensee will ensure, through regular checks and intervention, that customer's children are not left unsupervised outside the premises	CV
GMC27	The licensee will ensure, though regular checks and intervention that children will not congregate outside the premises.	CV

#### 4.11 Documents Provided to the Licensing Authority

GMC28	The licensee shall provide the Licensing Authority with their compliance/operating manual which sets out all of the premises policies to meet the regulatory requirements under the Gambling Act 2005 and shall provide a copy of any update or revision as soon as practicable following the implementation of that change.	CD, FO & CV
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#### 4.12 Entrances and Doors

GMC29	A magnetic locking device, commonly referred to as a Maglock will be installed and maintained on the main entrance/exit to the premises which will be operable from the ground floor cashier counter by staff.	CD & CV
GMC30	An Infra-Red Beam connected to a sounder will be installed and maintained at the entrance of the premises so as to notify staff when a customer enters or exits the premises.	CD & CV

#### 4.13 Staffing Levels

GMC31	There shall be no pre-planned single staffing at any time.	CD & CV
GMC32A	There shall be no pre-planned single staffing after 20:00. Should the premises be single staffed after this time the magnetic door locking system must be in constant use.	CD & CV
GMC32B	No pre-planned single staffing after 8pm and, when this is unavoidable, a Maglock shall be in constant use on the entrance/exit door.	CD & CV
GMC33	There will be a minimum of [enter number] staff will be present at all times when the premises is open.	CD & CV
GMC34	There will be a minimum of two members of staff after 10pm.	CD & CV
GMC35	A minimum of two members of staff will be on duty for the duration of the period in which licensable activities are taking place on the premises.	CD & CV

#### 4.14 Cashier Counters and Safe Havens

GMC36	The licensee shall maintain a full height polycarbonate or 11.5mm minimum thickness laminated glass security screen counter on the ground floor of the premises.	CD
GMC37	A full-height security screen shall be installed at the cashiers counter.	CD
GMC38	Full height security bars which are spaced at adequate intervals to prevent a person from reaching through will be installed at the cashiers counter	CD
GMC39	The licensee shall install a Safe Haven [add location of safe haven] which includes a secure door with peephole, CCTV Monitor, Telephone, Safe Guard system, maglock control button and any other systems deemed appropriate by the licensee.	CD

#### 4.15 Identification of Offenders or Problem Persons

GMC40	The licensee shall provide Spit Kits within the premises and provide staff training on the use of these kits.	CD
GMC41	If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of individuals which it wishes to be banned from the premises, the licensee shall use all reasonable endeavours to implement the ban through staff training.	CD
GMC42	The Licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.	CD
GMC43	The licensee will refuse entry to customers who appear to be under the influence of alcohol or drugs.	

#### 4.16 Seating

GMC44A	The licensee shall ensure that all seating within the premises are either secured to the floor or are weighted to prevent lifting	CD
GMC44B	The licensee shall ensure that all gaming machine seating	CD

	within the premises are weighted to prevent lifting	
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#### 4.17 Alarms (Premises and Personal)

GMC45A	Each member of staff will be provided and required to carry on their person a personal fob alarm which will activate the alarm if pressed by the member of staff or that staff member is lying horizontal for a pre-determined period of time.	CD
GMC45B	Lone working staff will be provided and required to carry on their person a personal fob alarm which will activate the alarm if pressed by the member of staff or that staff member is lying horizontal for a pre-determined period of time.	CD
GMC46	The licensee shall install and maintain an intruder alarm on the premises.	CD
GMC47	The premises shall install and maintain a panic button behind the cashiers counter.	CD
GMC48	The premises shall install and maintain a panic button behind the cashiers counter that will alert the premises security once pressed.	CD
GMC49	An attack alarm shall be installed and maintained behind the cashier counter which would alert [operator name] Security and the police.	CD
GMC50	An attack alarm shall be installed and maintained behind the cashier counter which would alert the police.	CD

#### 4.18 Toilets

GMC51	A Maglock device will be installed and maintained on the customer toilet door which will be operated by a member of staff from the cashiers counter.	CD & CV
GMC52	The Licensee shall install and maintain an ultraviolet lighting system in the customer toilet.	CD & CV
GMC53	The licensee will ensure that customer toilets are checked [insert time interval] for evidence of drug taking.	CD & CV

#### 4.19 Restrictions on Food and Beverages

GMC54	Only refreshments purchased or supplied on the premises may be consumed on the premises	CV
GMC55	The hot refreshment vending machine and refreshment facilities shall be provided for customers and staff use only.	CV

#### 4.20 Signage, Promotional Material and Notices

GMC56	<p>The licensee shall place and maintain a sign at the entrance of the premises stating that access to the premises will be excluded to the following people:</p> <ul style="list-style-type: none"> <li>a) Anyone who is under the age of 18,</li> <li>b) Anyone who appears to be under the age of 21 and is unable to provide proof of age that they are over the age of 18,</li> <li>c) Only refreshments purchased or supplied on the premises may be consumed on the premises,*</li> <li>d) Anyone who is barred from the premises, and</li> <li>e) Anyone who has alcohol on their person or appears to be under the influence of alcohol or substances.</li> </ul> <p><i>* Only to be added if model condition GMC54 is proposed.</i></p>	CD & CV
GMC57	<p>The Licensee shall place and maintain a sign at the entrance which states that 'only refreshments purchased on the premises may be consumed on the premises'.</p> <p><i>Only to be added if model condition GMC54 is proposed.</i></p>	CV
GMC58	All notices regarding gambling advice or support information must be translated into both simplified and traditional Chinese.	FO & CV
GMC59	All public signage/documentation relating to age restrictions, gambling advice and gambling support information (e.g. GamCare or similar support service) is displayed or provided on the premises in written English and Chinese (Simplified and Traditional).	FO & CV
GMC60	All public signage/documentation relating to age restrictions, gambling advice and gambling support information (e.g. GamCare or similar support service) is displayed or provided on the premises in written English and [insert language relevant to the local population].	FO & CV

GMC61	Prominent GamCare documentation will be displayed at the premises.	FO & CV
GMC62	The licensee shall ensure that no ethnicity specific gambling promotion is provided or advertised on the premises which is designed and/or intended to entice participation in gambling by the local community.	CV
GMC63	The licensee shall ensure that no gambling promotion is provided or advertised on the premises which is designed and/or intended to entice participation in gambling by the local [insert ethnicity] community.	CV

#### 4.21 Enticement Promotions

GMC64	The licensee shall not offer any enticement promotions, such as happy hours during which gaming machines stakes are reduced.	FO & CV
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#### 4.22 Staff Training

GMC65	<p>The licensee shall:</p> <ul style="list-style-type: none"> <li>a) provide training on the specific local risks to the licensing objectives that have been identified for these premises as part of the staff induction training programme.</li> <li>b) periodically provide refresher training to all of its staff working at these premises on the specific local risks to the licensing objectives.</li> </ul> <p>Participation in this training shall be formally recorded on each member of staffs training records which, if requested will be presented to the Licensing Authority as soon as practicable.</p>	CD, FO & CV
GMC66	<ul style="list-style-type: none"> <li>a) The Licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training.</li> <li>b) Participation in this training shall be formally recorded and the records produced to the police or licensing authority upon request.</li> </ul>	CD, FO & CV
GMC67	New and seasonal staff must attend induction training and receive refresher training every six months.	CD, FO

		& CV
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#### 4.23 Recording of Incidents and Visits

GMC68	An incident log shall be kept for the premises and made available on request to an authorised officer of the Borough Council or the Police which will record the following; <ul style="list-style-type: none"> <li>a) All crimes reported to the venue;</li> <li>b) Any complaints received regarding crime and disorder;</li> <li>c) Any incidents of disorder;</li> <li>d) Any faults in the CCTV system; and</li> <li>e) Any visit by a relevant authority or emergency service.</li> </ul>	CD
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#### 4.24 Customer Bags and Belongings

GMC69	Customer shall not be permitted to leave bags or other belongings at the premises.	CV
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#### 4.25 Homeless and Street Drinking

GMC70	The licensee will contact the local homeless hostels/shelters and offer to provide information on problem gambling support services and how their residents can self-exclude from [operator name] premises.	CV
GMC71	The Licensee shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so.	CD & CV
GMC72	The Licensee shall place a notice visible from the exterior of the premises stating that customers drinking alcohol outside the premises is not permitted and those who do so will be banned from the premises.	CD & CV

#### 4.26 Police Reporting Protocols and Crime Prevention

GMC73	The Licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises.	CD
GMC74	Prior to opening the Licensee shall meet with the Crime	CD

	Prevention Officer in order to discuss any additional measures to reduce crime and disorder.	
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#### 4.27 ATMs

GMC75	There shall be no cash point or ATM facilities on the premises.	CD & CV
GMC76	The ATM shall be located so that the staff behind the cashiers desk has direct line of sight to the machine and customers using it.	CD & CV
GMC77	Signage shall be placed on or immediately next to the ATM to warn customers to cover the keypad when entering their PIN number	CD

#### 4.28 Gaming Machines and Self Service Betting Terminals (SSBTs)

GMC78	Gaming machines shall be sited in the locations specified on the premises plans	CD & CV
GMC79	Gaming machines shall be sighted so that the cashiers from all counter positions have direct line of sight of the machines and the customers using them.	CD & CV
GMC80A	Gaming machines shall not be emptied whilst customers are present on the premises and the doors are unlocked.	CD
GMC80B	Self Service Betting Terminals shall not be emptied whilst customers are present on the premises and the doors are unlocked.	CD
GMC80C	Gaming Machines and Self Service Betting Terminals shall not be emptied whilst customers are present on the premises and the doors are unlocked.	CD
GMC81A	Gaming Machines shall not be emptied when there is only one member of staff on the premises.	CD
GMC81B	Self Service Betting Terminals shall not be emptied when there is only one member of staff on the premises.	CD
GMC81C	Gaming Machines and Self Service Betting Terminals shall not be emptied when there is only one member of staff on	

	the premises.	
GMC82	The number of Self Service Betting Terminals (SSBT's) permitted on the premises is [insert number]	CV
GMC83	The over 18 area containing the category C gaming machines will be enclosed with a floor to ceiling partition wall with one point for egress and ingress.	CV
GMC84	Privacy screening, known as a 'gaming machine pod' shall not enclose the customer to such a degree that would restrict the customer's peripheral vision of the premises when playing the machine in either a standing or sitting position and prevent a member of staff from observing that person.	CD & CV
GMC85	No other gambling facilities shall be provided in a gaming machine enclosure so as to allow a customer the ability to play the machine and participate in other forms of gambling.	CV

#### 4.29 Multiple Storey Venues

GMC86	Access to the [floor number] floor of the premises will be controlled by members of staff and a door which can only be operated by members of staff will be positioned at the bottom of the stairs thereby restricting access to only those with staff approval.	CD
GMC87	A minimum of one member of staff shall be present at all times when the [floor number] floor is being used by customers.	CD & CV
GMC88	The licensee shall install and maintain an internal intercom/phone system to enable staff to communicate with one another on all floors of the premises.	CD & CV
GMC89	The licensee shall install monitors within the staff cashier counter areas on all floors that will display live CCTV footage from inside and outside the premises.	CD & CV
GMC90	An attack alarm shall be installed and maintained behind the ground and first floor cashier counters which would alert [operator name] Security and the police.	CD
GMC91	A magnetic locking (Maglock) device will be installed and maintained on the customer toilet door on the [floor number] floor which will be operated by a member of staff from the	CD & CV

cashiers counter on the [floor number] floor.

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Is the final decision on the recommendations in this report to be made at this meeting?	<b>No</b>
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### Licensing Compliance and Enforcement Policy

<b>Final Decision-Maker</b>	Licensing Committee
<b>Head of Service</b>	John Littlemore
<b>Lead Officer/Report Author</b>	Lorraine Neale
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

**This report makes the following recommendations to the final decision-maker:**

1. To recommend to Communities, Housing and Environment Committee the adoption of the Licensing Compliance and Enforcement Policy attached as Appendix A.
2. To delegate to the Head of Service to make any typographical or similar minor amendments to appendix A prior to publication.

**This report relates to the following corporate priorities:**

- Great People
- Great Place
- Great Opportunity

**Timetable** (\* please delete those not applicable)

<b>Meeting</b>	<b>Date</b>
Licensing Committee	29 September 2016
Communities, Housing and Environment Committee	13 December 2016

# Licensing Compliance and Enforcement Policy

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report updates Members on the proposed Compliance and Enforcement policy to be introduced across the Licensing Partnership. A service specific policy will help to ensure that consistency can be applied across the Licensing Partnership through the harmonisation of policies.
  - 1.2 It is best practice that the Council reviews the policies on Compliance and Enforcement processes from time to time to ensure the most current information and guidance is made available to applicants, and that the policy takes into consideration the most recent legislation and resources available to the Licensing Partnership.
  - 1.3 If agreed by Members, the revised policy will be referred for adoption by the Communities, Housing & Environment Committee on 13 December 2016.
- 

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council as the Licensing Authority has responsibility for licensing and registering a range of functions in the interests of public safety and protection. As such, we have a moral and legal duty to continue upholding the requirements of various legislation by which we are governed.
- 2.2 It is best practice to be transparent and concise in how we, as the Licensing Authority achieve compliance and enforcement. It is important to review our policy, including our approach to compliance and enforcement matters to reflect change over time, changes in resources and to reflect changes in legislation in order to maintain public confidence and continue to achieve public safety and prevent offences being committed under the various Acts.
- 2.3 A Compliance and Enforcement Policy enables clarity on the position of licence holders, what is expected of them, steps the Licensing Authority would expect them to take to rectify an issue and steps we may take to resolve an issue in relation to non-compliance and offences under various Acts.
- 2.4 The draft Policy at appendix A if adopted will also act as new guidance to Members of the Licensing Committee/Sub-Committee when making decisions on the status of a licence. The guidance will outline actions that are reasonable and proportionate to ensure decisions are fair, in the public interest and proportionate and that any decision taken is defensible.
- 2.5 Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes to prevent anyone obtaining an unfair advantage through unlicensed activities and to ensure the security and safety of the public.
- 2.6 Some functions in which we have a duty to ensure requirements, regulations and various licensing objectives are upheld include:
  - (a) hackney carriage and private hire drivers and vehicles and private hire operators;
  - (b) alcohol, entertainment and late night refreshment;
  - (c) charity collections;
  - (d) sex establishments;
  - (e) gambling premises, permits and lottery registrations;
  - (f) scrap metal dealers and collectors.
  - (g) street trading

This Licensing Compliance and Enforcement Protocol seeks to cover all relevant licensing functions and all related topics.

- 2.7 The proposed revised Policy closely follows that of Kent and Medway Licensing Compliance and Enforcement Protocol (Appendix B) which has been used as a guide for Maidstone, the Licensing Partnership, partnership authorities and agencies. The revised policy will provide a service specific protocol and harmonise the way in which the Councils' officers regulate licensing functions and ensure consistency and fairness across the Partnership.

### 3. AVAILABLE OPTIONS

- 3.1 Adopt a specific Compliance and Enforcement Policy to reflect the current legislation and the resources available in relation to the Licensing Partnership. This encompasses a wider range of enforcement requirements relating to licensable activities in order to achieve public safety and enable a consistent approach across the Partnership (Option 1).
- 3.2 To retain the existing umbrella policy in isolation, however this would not fulfil the needs of the Licensing Partnership to enable greater harmonisation of policies and consistency of approach or be service specific (Option 2).

### 4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1: To introduce a Service specific up-to-date Enforcement and Compliance Policy to encourage consistency across the Partnership and working towards the service objectives of harmonisation of policies where feasible.

### 5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No consultation is required by the statutory framework, as this matter relates to the operational implementation.

### 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If Members consider and approve the proposed recommendation, the policy will come into effect once it has been adopted by the Communities, Housing & Environment Committee. The Policy will then be published on the Council's website.

### 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	No issues identified	[Head of Service or Manager]
<b>Risk Management</b>	No issues identified	[Head of Service or Manager]
<b>Financial</b>	Where it is possible and considered appropriate, compliance costs are passed to the user, in line with the "user pays" principle adopted by the	[Section 151 Officer & Finance Team]

	<p>council. Costs that cannot be passed to the user are already in the base revenue budgets of the council and this updated policy is not anticipated to affect these budgets.</p> <p>There is always financial risk associated with enforcement, but having clear policy guidance is one of the tools available to mitigate the risks.</p>	
<b>Staffing</b>	No issues identified	[Head of Service]
<b>Legal</b>	<p>Decisions in relation to a licence holder are likely to amount, amongst other things to consideration of civil rights and obligations under the human rights act 1998. This policy assists in ensuring that these rights are fully considered.</p> <p>A reasonable and proportionate, policy will ensure that officers consider and take action against infringements of legislation in a robust, consistent and transparent manner which will assist in reducing the risk of legal challenge.</p>	[Legal Team]
<b>Equality Impact Needs Assessment</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper fall in line with the legislation and do not pose a risk to issues surrounding equality and existing policies</p>	[Policy & Information Manager]
<b>Environmental/Sustainable Development</b>	No issues identified.	[Head of Service or Manager]
<b>Community Safety</b>	No issues identified	[Head of Service or Manager]
<b>Human Rights Act</b>	No issues identified	[Head of Service or Manager]

<b>Procurement</b>	No issues identified	[Head of Service & Section 151 Officer]
<b>Asset Management</b>	No issues identified	[Head of Service & Manager]

**3 REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A - Draft Licensing Compliance and Enforcement Policy
- Appendix B - Kent Licensing Compliance and Enforcement Protocol 2014

**4 BACKGROUND PAPERS**

None



## Maidstone Borough Council Licensing Compliance and Enforcement Policy

### CONTENTS

1. Introduction
2. Aim of this Policy
3. Implementation of Policy
4. Principles of Operation
5. Liaison arrangements
6. Effective practice
7. Risk rating of licensed premises
8. Compliance
9. Enforcement
10. Review

### 1. INTRODUCTION

- 1.1. Maidstone Borough Council (MBC) is responsible for licensing and registering a range of functions within its district in the interests of public safety and protection. This policy sets out how we as the Licensing Authority achieve compliance and enforcement.
- 1.2. We define compliance as how licence holders meet the standards required of them and define enforcement as meaning taking action in relation to unlicensed activities.

These functions include:

- (a) hackney carriage and private hire drivers and vehicles and private hire operators;
  - (b) alcohol, entertainment and late night refreshment;
  - (c) charity collections;
  - (d) sex establishments;
  - (e) gambling premises, permits and lottery registrations;
  - (f) scrap metal dealers and collectors.
  - (g) street trading
- 1.3. This Licensing Compliance and Enforcement Policy seeks to cover all relevant licensing functions and all related topics.
  - 1.4. Maidstone Borough Council as the Licensing Authority puts into effect and ensures compliance with a range of legislation in the public interest. Furthermore, the Council has a duty to uphold and achieve compliance relating to the policies adopted by the

Licensing Authority and conditions and requirements that may be imposed on licence holders or those that engage in licensable activities for the benefit of public safety. The Licensing Authority supports the corporate vision that the borough should remain a prosperous, safe and healthy place where people want and are able to live and work, and whereby culture, tourism, employment and self-sufficiency of local communities is encouraged.

- 1.5. Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes, and to prevent anyone obtaining an unfair advantage through unlicensed activities.
- 1.6. The Licensing Authority seeks to uphold the legislation and prevent offences occurring under the various Acts. The seriousness of these offences is reflected in the maximum penalty on conviction in the Magistrates' Court which for some offences may result in imprisonment and/or an unlimited fine.
- 1.7. In developing this policy, the Licensing Authority has had regard to the Human Rights Act 1998, the statutory Regulators' Code issued under the Legislative and Regulatory Reform Act 2006, the Regulatory Enforcement and Sanctions Act 2008, the Code for Crown Prosecutors and the Equalities Act 2010.

## **2. AIM OF THIS POLICY**

- 2.1. This policy is intended to reinforce the aims and uphold the objectives of the published guidance to all relevant legislation (as shown in appendix A) by promoting effective practice and the Regulators' Code ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.
- 2.2. This policy is intended to protect individuals, organisations, the community and the environment from harm and to assist as practically as possible in preventing further crime and disorder and to change the behaviour of perpetrators. This policy also aims to eradicate any financial gain or benefit which may be the consequence of non-compliance and to protect those affected by non-compliance. The Licensing Authority in adopting this Policy aims to be responsive and consider what is appropriate in the circumstances, be proportionate to the nature of the offence and the harm caused and to deter future non-compliance.

## **3. IMPLEMENTATION OF POLICY**

- 3.1. All enforcement powers are delegated to the Head of Housing and Community Services who may instruct the Head of Legal Partnership to the Council to commence legal proceedings where appropriate. However, Officers have delegated authority to determine licences and undertake investigations as may be appropriate under the Council's Constitution and the various Acts. Officers may where appropriate present a case to the Licensing Sub-Committee to determine enforcement action.
- 3.2. Any appeal to an Officer's decision or Licensing Sub-Committee decision may be to the appropriate Court.
- 3.3. This policy was adopted by the Communities Housing and Environment Committee on XXX and came into immediate effect. It will be reviewed in 2021, unless legislative or

other changes make it appropriate to do so before this period. Policies and procedures may change from time to time as they may be reviewed on a regular basis in the light of changes in legislation, case-law or best practice.

- 3.4. New Councillors elected to serve on the Licensing Committee will receive training on the policy and the relevant Committees will be kept informed about any future updates.
- 3.5. The Licensing Authority has a duty under the Crime and Disorder Act 1998 to take all reasonable measures to prevent crime and disorder within the Borough. Consequently, the Licensing Authority will share information where relevant about applicants, licence-holders and unlicensed people or organisations with other agencies as appropriate. For example, the Council's Fraud team, the Police, HM Revenue and Customs, Home Office Immigration Enforcement, Trading Standards or the Department for Work and Pensions.
- 3.6. This list may be revised from time to time and we may share information with other agencies as required with due regard to data protection legislation.
- 3.7. All enforcement decisions will be fair, independent and objective. They will not be influenced by any of the protected characteristics under the Equalities Act 2010 for example, age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation.
- 3.8. Due regard will be taken when dealing with juveniles or other vulnerable people. Each case will be determined on its own merits taking into consideration the requirements of the governing legislation, relevant guidance, Council Policies and relevant sources of evidence. Policies the Council will consider within its decision making process may include the Statement of Licensing Policy Licensing Act 2003, Statement of Licensing Principles for the Gambling Act 2005, Hackney Carriage and Private Hire Licensing Policy, Street Trading Policy, Sex Establishments Policy, Scrap Metal Policy, Charitable Collections Policy. This list is not exhaustive and may change from time to time given legislative or procedural changes.
- 3.9. In some cases where the Council does not have powers to intervene as the Licensing Authority, the Council may refer the intelligence or complaint to the appropriate organisation. Where the Council do have powers to intervene, the first approach wherever possible will be to attempt an informal resolution. Officers will use the resources at their disposal, intelligence and evidence presented and gathered to determine objectively using their discretion whether an informal resolution is possible. Informal resolutions will unlikely be adopted for repeat offenders. This will involve clearly identifying the nature of any actual or potential legislative breach and giving the perpetrator the opportunity to remedy it.
- 3.10. Decisions will be consistent, proportionate and will aim to uphold public confidence. They will balance the rights of licence holders, applicants and perpetrators with maintaining public confidence and safety. The Council will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice which is not compulsory.
- 3.11. The Licensing Authority may publicise the results of prosecutions when it is in the public interest to do so, or in the interests of the Authority.

- 3.12. The Licensing Authority will maintain the confidentiality of complaints and sources of complaints as far as reasonably possible. Should a prosecution be pursued, the Court or other relevant parties may be required to be provided with these details. We will only release personal information in accordance with legal requirements or the Data Protection Act 1998.

#### **4. PRINCIPLES OF OPERATION**

- 4.1. The Licensing Authority aims to continue to promote the spirit of co-operation that exists between the relevant agencies and to recognise the benefits to be derived from developing close working relationships.
- 4.2. The Licensing Authority will seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective enforcement and community safety and promote the legitimate exchange of information and operational cooperation.

#### **5. LIAISON ARRANGEMENTS**

- 5.1. There will be regular contact and liaison with the responsible authorities and other government bodies or individuals or organisations where appropriate to:
- Provide access to appropriate sources of information;
  - Provide a consistent approach to communication, operations and investigations;
  - Encourage early contact and liaison in specific cases;
  - Allow for advice or guidance to be given in relation to a specific case;
  - Ensure that any national or regional campaigns or investigations are considered;
  - Enable relevant officers to be kept informed of the progress of cases that are being investigated;
  - Ensure that information and intelligence being passed between the agencies is in accordance with the Information Sharing Agreement between the Licensing Authority and other Council and Police departments.

Officers will seek to:

- Ensure the effective exchange of information between the agencies;
- Consider the need for joint visits;
- Implement co-ordinated actions as necessary;
- Co-ordinate the supply of evidence and information to any other agency taking formal action;
- Work together where practicable, to promote stated objectives;
- Discuss and liaise in the event of uncertainty over lead roles.

#### **6. EFFECTIVE PRACTICE**

- 6.1. The Council will ensure that it will carry out the work undertaken in accordance with the legislation, government guidance and all reasonable aspects of effective practice. In doing so the Council will:

- Focus primarily on premises/activities that are determined by consultation between relevant parties to be a high risk of contravening the legislation and the objectives of the legislation;
- Ensure all guidance and information is in a clear, accessible and concise format, using media appropriate to the business;
- Ensure that service delivery is provided in a non-discriminatory manner;
- Highlight those matters that are legal requirements to separate them from matters that are recommendations or good practice;
- Provide information in a timely manner and where required, advise recipients of their legal rights in such matters;
- Ensure, wherever possible, that responsible persons do not undertake work that is unnecessary in terms of duplication with other legislation and has regard to cost/benefit; available technology; consistency in application with enforcement action proportionate to risk in each case;
- Deal with the public, licensees and businesses in a fair and honest way;
- Provide a courteous, efficient responsive and helpful service, responding promptly and appropriately to service requests and complaints;
- Attend Court in support of partner agencies where it is agreed that evidence/ information will be of mutual assistance having due regard to liability.

## **7. RISK RATING OF LICENSED PREMISES**

- 7.1. All licensed premises will be risk assessed. This assessment takes into consideration the type of premises, range of licensable activities, history of complaints, competency of the current management and other factors which may change from time to time. The Licensing Authority will base its regulatory activity on risk, prioritising high risk and problem premises and activities.
- 7.2. All premises will be scheduled for inspections based upon their level of risk. This schedule may change from time to time subject to management changes or complaints arising from premises.

## **8. COMPLIANCE**

- 8.1. In respect of licensed premises such as those under the Licensing Act 2003, Gambling Act 2005, Scrap Metal Dealers Act 2013, Sex Establishment Licences under the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and Operator licences under the Local Government (Miscellaneous Provisions) Act 1976, routine visits/inspections may be made on the basis of risk assessments, as well as intelligence led operations.

- 8.2. In respect of licensed vehicles, the relevant compliance tests are required to be passed and vehicles will be inspected as a result of complaints or intelligence received. The Authority has the right to inspect a licensed private hire or hackney carriage vehicle whenever they deem it appropriate to do so. A sample of vehicles will be tested monthly. Checks will also be carried out on drivers of licensed vehicles each month and as a result of complaints or intelligence from other authorities.
- 8.3. When inspecting premises, the Authority will draw the appropriate authority's attention to any contraventions of any relevant legislation which are found to exist and will record the information gathered from all visits and act upon it in order to achieve compliance.
- 8.4. Non-compliance with the relevant legislation may lead to the appropriate proportionate enforcement action, taking into consideration the frequency of the breach, a risk to public safety or whether it is in the public interest to do so amongst other factors.

## 9. ENFORCEMENT

- 9.1. Enforcement action must be proportionate to the offence and the circumstance of the offence and balanced against risks, costs and resources available to the Authority. Proportionate action concerns judging the extent to which perpetrators have gone to in order to comply with the law and the extent to which the breach was intended, for instance deliberate misuse of licensed activities or premises and vehicles and so forth. Also assessed is the extent to which the breach could have been avoided, for instance previous knowledge of the requirements through advice or warnings.

Circumstances may include (but not exclusively) the following:

- Previous licensing history/character;
  - Previous interventions from the Authority and other agencies;
  - Change of premises ownership/management;
  - Seriousness of the offence and impact on risk to public safety.
- 9.2. An informal warning for example is unlikely to be a suitable disposal for a significant infringement that led to or could have potentially led to serious injury. Likewise, a prosecution is generally unsuitable for a minor administrative type of breach or technical oversight.

Enforcement action may include the following:

- No further action;
  - Verbal warning;
  - Written warning;
  - Simple caution;
  - Prosecution;
  - Other legal action.
- 9.3. The Authority may undertake informal advisory visits and meetings, mediation where possible, education, awareness-raising and advice. The Authority may also use direct

observations, test purchasing, joint investigations with other agencies and roadside vehicle checks for licensed vehicles and scrap metal dealers. The Authority will also conduct proactive and reactive visits.

- 9.4. The Authority, where possible, will give an early indication to all relevant parties of our progress and our intended course of action. The Authority will liaise with those parties as necessary to ensure a co-ordinated and thorough approach. The Authority will consider other actions as required bearing in mind alternative approaches to dealing with the situation that have been previously attempted and/or deemed to be inappropriate.
- 9.5. The Authority will explain the need for enforcement action in writing and verbally as far as reasonably practicable and why the action is necessary and when it must be carried out by. The Authority recognises that it may not be always possible to liaise with the relevant parties immediately if action is needed urgently to protect public health, safety or the environment or preserve evidence.
- 9.6. If the Authority receives information that may lead to formal enforcement action it will notify the source of the complaint as soon as practicably possible of any intended enforcement action, unless this will impede an investigation or pose a safety risk.
- 9.7. The Authority has the right to request to interview those whom they suspect of unlicensed activity, or breaches under the various licensing legislations. These interviews may be informal, formal recorded interviews or interviews conducted under the Police and Criminal Evidence Act (PACE). Whilst attendance may not be compulsory, it would be in the interests of the individual or organisation being investigated to attend. Actions may be considered should they abstain from attending.

## **10. REVIEW OF THIS POLICY**

- 10.1. Maidstone Borough Council shall periodically review this Policy, at least once every five years, to ensure that it maintains a suitably responsive and practical arrangement for all licensing functions and that enforcement and compliance measures remain reasonable and proportionate to the matters to which it pertains, and in line with the resources at the Council's disposal.

# Kent and Medway Licensing Compliance and Enforcement Protocol

**CONTENTS**

1.	Introduction	Page 3
2.	Aim of this Protocol	Page 3
3.	Principles of operation	Page 3-4
4.	Liaison arrangements	Page 4
5.	Effective practice	Page 5
6.	Risk rating of licensed premises	Page 5
7.	Compliance	Page 5-6
8.	Enforcement	Page 6
9.	Review of this Protocol	Page 6
Appendix A	Legislation this Protocol includes	
Appendix B	Information Sharing Agreement	

## 1. INTRODUCTION

1.1 This joint Licensing Compliance and Enforcement Protocol seeks to cover all relevant licensing functions and all related topics, in as much as it applies to each individual organisation in Kent and Medway.

1.2 These include but are not exclusive to the following organisations:

Kent Police

Kent Fire and Rescue Service

Kent County Council Trading Standards

Gambling Commission

Securities Industry Authority

Public Health

Social Services

Licensing Operations at the Local Authorities in Kent and Medway

## 2. AIM OF THIS PROTOCOL

2.1 This protocol is intended to reinforce the aims of the published guidance to all relevant legislation (as shown in appendix A) by promoting effective practice, and the Regulators Code ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.

## 3. PRINCIPLES OF OPERATION

3.1 In adopting this document the parties agree to:

- Continue to promote the spirit of co-operation that exists between the relevant agencies;
- Recognise the benefits to be derived from developing close working relationships;
- Seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective enforcement and community safety;
- Promote the legitimate exchange of information and operational co-operation in support of shared objectives.

3.2 Each party to this protocol undertakes:

- To regularly consult with each other upon matters of policy and strategy;
- To ensure that the information it holds is accurate and up to date;
- That information disclosed by any party will be kept secure by the partner to whom it has been provided.

3.3 All parties to this protocol agree when handling the media:

- To be fair to other organisations and maintain their integrity;
- When providing information to do so honestly and fairly;
- Statements must reflect the multi-agency decision process or, clearly identify the statement as the independent position of an individual organisation;
- Consent of the data owner will be sought prior to releases of information to all third parties.

#### 4. LIAISON ARRANGEMENTS

4.1 There will be regular contact and liaison between the parties to:

- Provide access to appropriate sources of information;
- Provide a consistent approach to communication, operations and investigations;
- Encourage early contact and liaison in specific cases;
- Allow for advice or guidance to be given in relation to a specific case;
- Ensure that any national or regional campaigns or investigations are considered;
- Enable relevant officers to be kept informed of the progress of cases that are being investigated;
- Ensure that information and intelligence being passed between the agencies is in accordance with the Kent and Medway Information Sharing Agreement (see Appendix B) and data protection legislation.

4.2 To this end, officers from parties will seek to:

- Ensure the effective exchange of information between the agencies;
- Consider the need for joint visits;
- Implement co-ordinated actions as necessary;
- Co-ordinate the supply of evidence and information to any other agency taking formal action;
- Work together where practicable, to promote stated objectives;
- Discuss and liaise in the event of uncertainty over lead roles.

## **5. EFFECTIVE PRACTICE**

- 5.1 The parties to this agreement will ensure that they will carry out the work undertaken in accordance with the legislation, government guidance and all reasonable aspects of effective practice. In doing so each party will:
- Focus primarily on premises/activities that are determined by consultation between the parties to be a high risk of contravening the legislation and the objectives of the legislation;
  - Ensure all guidance and information is in a clear, accessible and concise format, using media appropriate to the business;
  - Ensure that service delivery is provided in a non-discriminatory manner;
  - Highlight those matters that are legal requirements to separate them from matters that are recommendations or good practice;
  - Provide information in a timely manner and where required, advise recipients of their legal rights in such matters;
  - Ensure, wherever possible, that responsible persons do not undertake work that is unnecessary in terms of duplication with other legislation and has regard to cost/benefit; available technology; consistency in application with enforcement action proportionate to risk in each case;
  - Deal with the public, licensees and businesses in a fair and honest way;
  - Provide a courteous, efficient responsive and helpful service, responding promptly and appropriately to service requests and complaints;
  - Attend court in support of partner agencies where it is agreed that evidence/information will be of mutual assistance having due regard to liability.

## **6. RISK RATING OF LICENSED PREMISES**

- 6.1 The Licensing Authority will assess the risk rating of licensed premises and will base their regulatory activity on risk, prioritising high risk premises and activities.

## **7. COMPLIANCE**

- 7.1 Parties will regularly discuss applications, reviews, complaints and intelligence that have been received concerning licensed premises and other matters.
- 7.2 Routine visits/inspections may be made on the basis of risk assessments, as well as intelligence led operations.

- 7.3 The parties when inspecting premises will draw the appropriate authority's attention to any contraventions of any relevant legislation which are found to exist.
- 7.4 Non compliance with the relevant legislation may lead to the appropriate proportionate enforcement action.

## **8 ENFORCEMENT**

8.1 Enforcement action may include the following:

- No further action
- Verbal warning
- Written warning
- Prosecution
- Other legal action

8.2 The relevant organisation considering enforcement action will:

- Give an early indication to all relevant parties of their intended course of action.
- Liaise with those parties as necessary to ensure a co-ordinated and thorough approach.
- Have considered that alternative approaches to dealing with the situation have been previously attempted and/or deemed to be inappropriate.

## **9. REVIEW OF THIS PROTOCOL**

9.1 The parties shall periodically review this Protocol, at least once every five years, to ensure that it maintains a suitably responsive and practical arrangement for all licensing functions.

## **Appendix A**

### **Relevant legislation**

The following list, though not exhaustive, details the legislation under which organisations issue licences, permits and registrations and enforce the same. The protocol used by Sevenoaks District Council will only apply to the legislation below which is dealt with by the Licensing Partnership.

#### **For alcohol, regulated entertainment and late night refreshment**

Licensing Act 2003

Criminal Justice and Police Act 2001

Policing and Crime Act 2009

Crime and Security Act 2010

Police Reform and Social Responsibility Act 2011

Live Music Act 2012

#### **For gambling**

Gambling Act 2005 (as amended)

#### **For sex establishments and sexual entertainment venues**

Local Government (Miscellaneous Provisions) Act 1982

Policing and Crime Act 2009

#### **For scrap metal dealers and motor salvage operators**

Scrap Metal Act 2013

#### **For taxi licensing**

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) act 1976

Road Safety Act 2006

Transport Act 1985

Road Vehicles (Construction and Use) Regulations 1986

Various Road Traffic Acts

#### **For street collections**

Police, Factories etc. (Miscellaneous Provisions) Act 1916

#### **For house to house collections**

House to House Collection Act 1939

House to House Regulations 1947

**For street trading, market stall licences and car boot sales**

Local Government (Miscellaneous Provisions) Act 1982

**For caravans and mobile homes**

Public Health Act 1936

Caravan Sites and Control of Development Act 1960

Mobile Homes Act 2013

**Pleasure Boats**

Public Health Acts Amendment Act 1907

**Animal Boarding**

Animal Boarding Establishments Act 1963

**Pet shops**

Pet Animals Act 1951

**Riding Establishments**

Riding Establishments Act 1964

**Zoo licence**

Zoo Licensing Act 1981

**Performing Animals registration**

Performing Animals (Regulation) Act 1925

**Food Premises registration**

EC Regulations 852/2004 (Food Premises)

**Tattooists, piercing and electrolysis licence**

Local Government (Miscellaneous Provisions) 1982

**Massage and special treatment premises licensing**

Byelaw under the Local Government (Miscellaneous Provisions) act 1982

**Hypnotism permit**

Hypnotism Act 1952

**Environmental permitting**

Environment Permitting (England and Wales) Regulations 2007

**Safety certificates for regulated stands at sports grounds**

Part III of the Fire Safety and Safety of Places Sport Act 1987

**Ability to place tables and chairs in the road, to use the street or pavement space for displays, licences and consents for structures over, along and under the highway and skip licences**

Highways Act 1980

**Other legislation and codes of practice to which organisations must have due regard when making licensing and enforcement decisions. Locally set byelaws may also apply.**

Crime and Disorder Act 198

Human Rights Act 1998

The Anti-Social Behaviour Act 2003

The Equalities Act 2010

Environmental Protection Act 1990

Health Act 2006 and Smoke-free Regulations 2006/7

Legislative and Regulatory Reform Act 2006

Health and Safety (First Aid) Regulations 1981

Regulatory Reform (Fire Safety) Order 2006

Security Industry Act 2001

European Service Directive 2006/123/EC (Services in the Internal Market) and the Provision of Services Regulations 2009

Data Protection Act 1998

Freedom of Information Act 2000