

# **Maidstone Borough Council**

## **'Gambling Act 2005 Statement of Licensing Principles' 2022 -2025**

Sept 2021

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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 meets one or all of the following: –

- a) the Gambling Commission's code of practice;
- b) the Guidance to local authorities;
- c) the Licensing Authority's own statement of principles;
- d) 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, Sevenoaks District Council and the London Borough of Bexley. 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 ?? ??? 2021 to come into force January 2022.

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 (April 2021) and contains the minimum of amendments and no changes to the intent or direction of the previous policy, which is that the Council seeks to ensure that premises for Gambling uphold the licensing objectives.

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 took place between ?? ??? and ?? ??? 2021 for a period of ?? weeks. The Licensing Authority has followed, as far as 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/> .

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.

#### 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.

The Licensing Authority expects applicants to have a good understanding of the area in which they either operate or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this Statement of Principles and demonstrate that in operating the premises they will promote the licensing objectives.

The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the Licensing Authority in certain circumstances in May 2016.

The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.

The risk assessment should demonstrate the applicant has considered, as a minimum:

- local crime statistics;
- any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- the type of gambling product or facility offered;
- the layout of the premises;
- the external presentation of the premises;
- the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
- the customer profile of the premises;
- staffing levels;
- staff training, knowledge and experience;
- whether there is any indication of problems with young persons attempting to access adult gambling facilities in that type of gambling premises in the area.

It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.

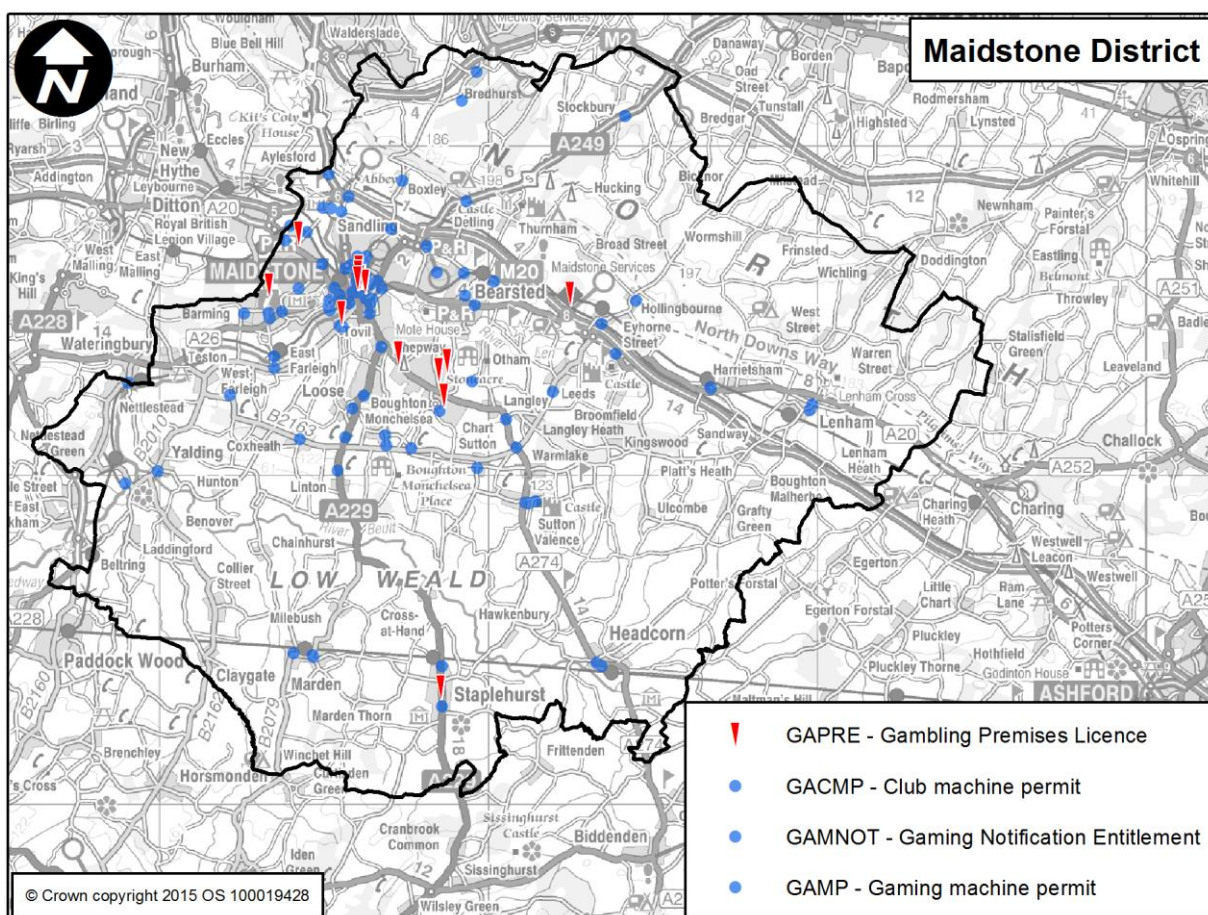
This Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.

The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.

## 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 602528.

## **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 adopt a risk-based inspection programme.

New premises, premises under new management, premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating. Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating. The Council will conduct baselining assessments to assess initial risk ratings for gambling premises in its district. The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act or working with colleagues from other Council departments or outside agencies.

The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling

facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.

Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.

Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.

The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Enforcement Policy.

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 make available Cat D 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 basic 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. This applies to licensed family entertainment centres and bingo premises and not adult gaming centres and betting premises which are adult only premises. 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. These considerations should also apply to unlicensed family entertainment centre permits.

- 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 basic 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 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.
- Prize gaming permits are issued for 10 years and there is no annual fee.

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). A

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, it must be permanent in nature, not established to make a commercial profit and must be controlled by its members equally. 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.

The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:

- is the primary activity of the club something other than gaming?
- are the club's profits retained solely for the benefit of the club's members?
- are there 25 or more members?
- are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- do members participate in the activities of the club via the internet?
- do guest arrangements link each guest to a member?
- is the 48 hour rule being applying for membership and being granted admission being adhered to?
- are there annual club accounts available for more than one year?
- how is the club advertised and listed in directories and on the internet?
- are children permitted in the club?
- does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- is there a list of Committee members and evidence of their election by the club members?

When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?

Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits

## 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 and licence conditions and codes of practice.



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 ( split premises) 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.
- (d) Operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Gambling premises do not have to be complete

before a Premises Licence can be granted. The Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

**(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."

Because gaming machines provides opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.

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.

As gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

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-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Measures/training for staff on how to deal with suspected truant school children on the premises

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

**(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.

The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.

To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.

#### **(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) Small Society Lotteries:**

The Council will adopt a risk-based approach towards our compliance responsibilities for small society lotteries. We consider the following list, although not exclusive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- Submission of incomplete or incorrect returns
- Breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event as either an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes
- To enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact us on 01622 602028 or email [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk) to seek further advice

#### **(xviii) 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							
Adult gaming centre	Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 or B4							
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.

## Appendix 7

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

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
<b>A</b>	Unlimited	Unlimited	Regional Casino
<b>B1</b>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
<b>B2</b>	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
<b>B3</b>	£2	£500	Bingo premises, Adult gaming centre and all of the above
<b>B3A</b>	£2	£500	Members' club or Miners' welfare institute only
<b>B4</b>	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
<b>C</b>	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.
<b>D money prize</b>	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above



<b>D non-money prize (other than crane grab machine)</b>	30p	£8	All of the above.
<b>D non-money prize (crane grab machine)</b>	£1	£50	All of the above.
<b>D combined money and non-money prize (other than coin pusher or penny falls machines)</b>	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
<b>D combined money and non-money prize (coin pusher or penny falls machine)</b>	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

\* These values are subject to change

## 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 together with 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)