

Statement of Principles under the Gambling Act – January 2019 to January 2022

Licensing

1 January 2019

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PART A

INTRODUCTION

1. Statement of Principles

- 1.1 This Statement of Principles is published in accordance with s349 of the Gambling Act 2005 ('the Act') and states the principles that the Licensing Authority for the London Borough of Richmond upon Thames proposes to apply when exercising its functions under the Act. The Act requires that Licensing Authority must publish its Statement of Principles at least every three years and may review that statement from time to time, and amend and republish following consultation.
- 1.2 In producing this final statement, this Licensing Authority declares that it has had regard to the licensing objectives under the Act, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.
- 1.3 The policy was approved at a meeting of the Full Council on 27 November 2018 and was published via our website on 7 January 2019. Printed copies are available at the Civic Centre upon request.
- 1.4 Notwithstanding this policy statement, each application received will be considered on its own merits, subject to the provisions of the Act, associated and subordinate legislation, and common law.

2. The Licensing Objectives

- 2.1 In exercising most of its functions under the Gambling Act 2005 ('the Act'), the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

Further details about the licensing objectives are set out in section 17 below.

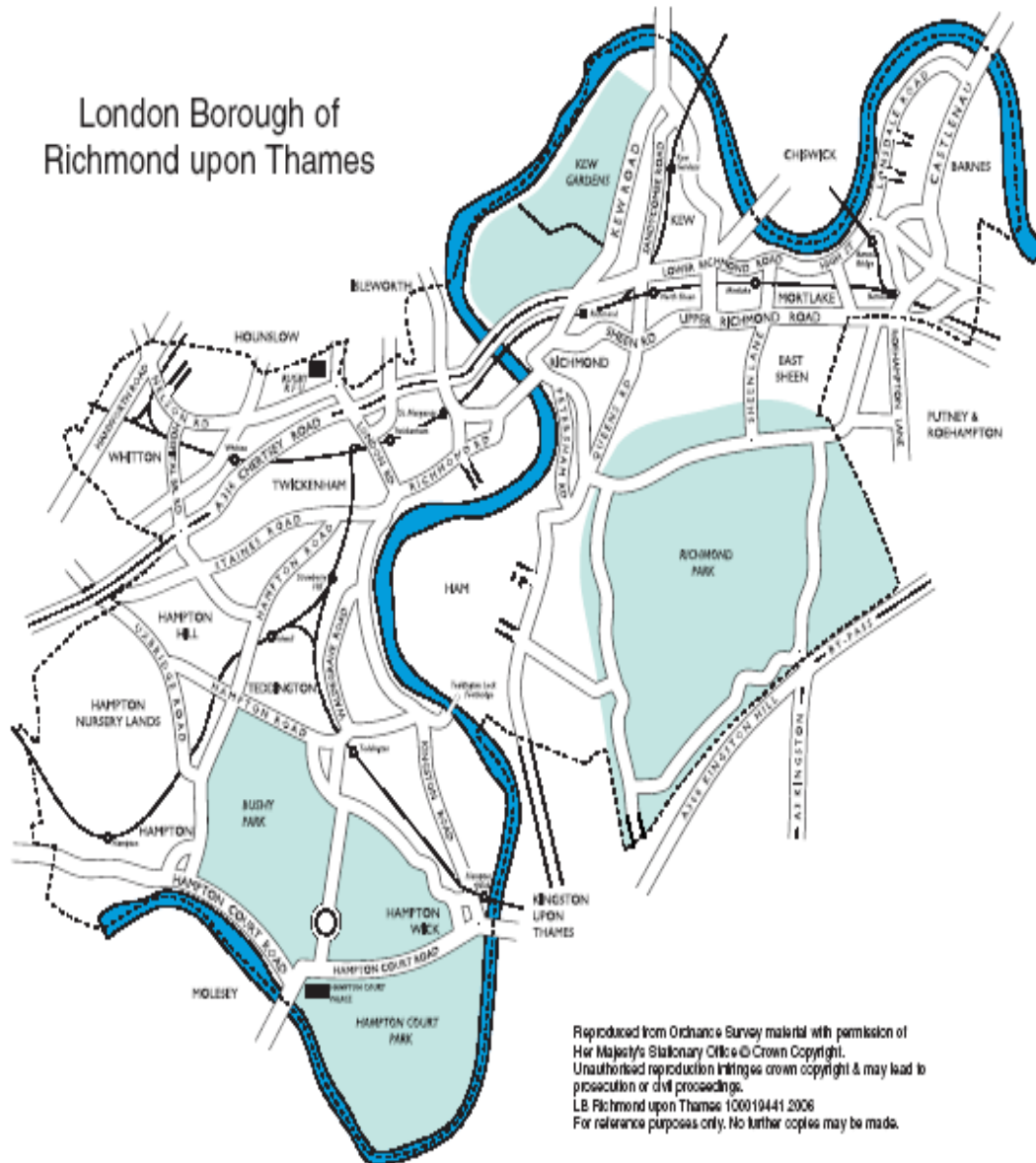
- 2.2 It should be noted that the Gambling Commission has stated¹ 'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'.
- 2.3 The Licensing Authority is aware that in accordance with Section 153 of the Act in making decisions about premises licences and temporary use notices 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 and principles.
- 2.4 The Licensing Authority is under a duty to act fairly and rationally, but cannot grant an application that does not satisfy the requirements of the preceding paragraph. Where there is conflict, the Gambling Commission Code of Practice and Guidance take precedence over this Statement of Gambling Principles.

¹ Guidance to licencing authorities - 5th Edition (September 2015)

3. Borough Profile

- 3.1 The London Borough of Richmond upon Thames is situated in southwest London. The borough covers 5855 hectares and is the only London borough spanning both sides of the Thames with river frontage of over 21 miles.
- 3.2 The population at the latest midyear estimate produced by the Office for National Statistics was 195,187 (2016) of which 48.6% male and 51.4% female. According to the resident population estimates 2016, 24.7% of the population in the borough are aged 19 years and under (6.9% aged 0-4, 7.2% aged 5-9, aged 10-14 5.7%, 4.9% aged 15-19).
- 3.3 There are about a dozen towns and villages, although more than a third of its land is open space (including Richmond Park, Bushy Park, Home Park and Kew Gardens). Richmond is the main centre with district centres at Twickenham, East Sheen, Teddington and Whitton. There is a thriving evening economy in many of the towns.
- 3.4 This is an affluent area though it contains some pockets of relative deprivation. The economy is generally buoyant with low unemployment.
- 3.5 There are two dominant leisure and night time economy town centres in the borough, Richmond and Twickenham. Both centres are also residential. The problems associated with a concentration of licensed premises in these areas are recognised by policy initiatives under other regulatory regimes.
- 3.6 Property prices are extremely high, with average prices being the highest for any outer London borough. Owner occupation accounts for 63.6% of the housing stock, (2011 census).
- 3.7 The proximity of the M3, M4 and M25 provide good road communications. With Heathrow nearby international communications are also good.
- 3.8 All these factors contribute in making the Borough a popular place to live, work and to enjoy leisure time.
- 3.9 At the time of adopting this policy there are no casinos or licensed bingo halls in the borough, although there are a number of betting shops (under twenty three in total) and a few premises with amusements with prizes machines. There are over 165 small lotteries registered in the borough.

London Borough of Richmond upon Thames



4. Consultation

4.1 Under the Act, the Licensing Authority is required to consult the following parties:

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

4.2 The Licensing Authority has consulted:

- The Chief Officer of Police
- The Council's Children and Families Department of Social Services
- Trade associations
- Businesses or their representatives involved in gambling
- Ward Councillors and local Members of Parliament
- Faith groups
- Residents Associations
- Voluntary and Community Organisations working with children
- The Primary Care Trust

- The Citizens Advice Bureau
- The Ethnic Minorities Action Group
- Trade Unions
- Responsible Authorities
- Organisations working with people who are problem gamblers
- Medical practitioners
- Others

4.3 A summary of the consultation comments will be made available upon request and placed onto the Council's website (www.richmond.gov.uk) and at the offices of the Licensing Authority.

4.4 In determining its policy, the Licensing Authority has given appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors taken into account included:

- the expertise or interest of those making the representations;
- any acknowledged or ostensible motivation for the views expressed;
- how far the representations related to matters that the Licensing Authority should be including in its policy statement.

In all cases, the Licensing Authority has considered its role in the regulation of gambling from the perspective of the public interest.

4.5 The consultation took place between 30 July and 1 October 2018.

5. Individual Merits

5.1 As previously noted, 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 in accordance with the requirements of the Act. However, any application received by the Licensing Authority for a casino premises licence shall be returned on the basis that the Licensing Authority has passed a resolution not to issue casino premises licences.

5.2 The starting point in determining applications will be to grant the application without conditions, other than any mandatory or default conditions laid down by regulations, subject to identifying any risks and offering any suitable control measure required to address the Borough's Local Area Profile and/or in any Risk Assessment presented by a gambling operator. Default conditions will be amended and additional conditions added only where they are needed to meet the requirements of the licensing objectives. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved.

6. Exchange of Information

6.1 The Licensing Authority is required by regulation to include in its Statement of Principles for Gambling the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

6.2 The principle that the Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information, which includes the requirement that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter and to any relevant regulations issued by the Secretary of State under the powers provided in the Act.

- 6.3 Contact details of those persons making representations and details of those representations will be made available to the applicant to allow for negotiation. In the event of a hearing to determine an application or review, the details will be provided to the members of the Licensing Committee. Should an appeal be lodged the details will become a matter of public record. Applicants or Interested Parties by providing their details accept that their details may be made public.
- 6.4 Information returns will be made to the Gambling Commission in accordance with current protocols and should any protocols be established regarding information exchange with other bodies then they will be made available. Premises Licence holders should be aware that their details may be shared with the Gambling Commission accordingly.

7. Enforcement

7.1 The Licensing Authority is required by regulation under the Act 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.

7.2 The Licensing Authority's principles are that it will be guided by:

- The Regulator's Compliance Code introduced by BERR, now the Department of Business, Innovation and Skills (BIS), and where relevant the Enforcement Concordat.
- The Licensing Authority's Enforcement Policy Quality Procedure, as amended from time to time. A copy is available via the Council's website (www.richmond.gov.uk) and the offices of the Licensing Authority. This policy is in accord with the Crown Prosecutors Code.
- The Gambling Commission's Guidance.
- Best practice as advocated by the Better Regulation Executive and Hampton Review principles. The Licensing Authority will endeavour to be:
 - (a) Proportionate (regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and cost identified and minimised)
 - (b) Accountable (regulators must be able to justify decisions, and be subject to public scrutiny)
 - (c) Consistent (rules and standards must be joined up and implemented fairly)
 - (d) Transparent (regulators should be open, and keep regulations simple and user friendly)
 - (e) Targeted (regulation should be focused on the problem, and minimise side effects)

7.3 Furthermore, the Licensing Authority has adopted a risk-based inspection programme based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission (in particular Part 36)
- The principles set out in this statement of licensing policy

7.4 In general enforcement visits will be targeted at:

- High risk premises
- Premises where it is believed gambling is taking place without the necessary permissions or where conditions are not being observed
- Premises where complaints have been received

- 7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Act is to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for operating licences and personal 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.
- 7.6 This Licensing Authority will also keep itself informed of developments in relation to the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

8. Licensing Committee & Scheme of Delegation

- 8.1 The Licensing Committee will consist of at least ten, but not more than fifteen, members of the authority. The Licensing Committee may delegate its functions to sub-committees or to officers supporting the Licensing Authority. Delegation shall occur in accordance with s154 of the Act, as summarised in the Scheme of Delegation attached at Appendix A.

9. Licensing Authority functions

- 9.1 The Licensing Authority is required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
 - Issue *Provisional Statements*
 - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and or Club Machine Permits
 - Issue *Club Machine Permits* to *commercial clubs*
 - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the premises under the Licensing Act 2003, where there are to be more than two machines
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions.
- 9.2 Licensing authorities are not to be involved in licensing remote gambling (e.g. internet gambling). This is the responsibility of the Gambling Commission alone.
- 9.3 The Licensing Authority will set fees from within the fee bands prescribed by Regulations. Fees will be reviewed annually and are available on the website (www.richmond.gov.uk)

10. Responsible Authorities

- 10.1 Responsible authorities may make representations about premises licence applications or provisional statements or apply for a review of an existing premises licence.
- 10.2 The responsible authorities under s157 of the Act are as follows:
- a Licensing Authority in whose area the premises lie;
 - the Gambling Commission;

- Chief Officer of Police
- the London Fire and Emergency Planning Authority
- the Local Planning Authority (Development Control in the LBRuT)
- the Authority which has functions in relation to pollution to the environment or harm to human health (Commercial Environmental Health Department of the LBRuT)
- the competent person to advise about the protection of children from harm (Specialist Children Services of the LBRuT)
- HM Revenue & Customs; and
- any other person prescribed in regulations by the Secretary of State

The relevant details of the preceding authorities, as they apply to this borough, are set on page 39 of this document.

- 10.3 It should be noted that in relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. This would include:
- (a) the Environment Agency
 - (b) the British Waterways Board and
 - (c) the Secretary of State (in practice, the Secretary of State for Transport, who acts through the Maritime and Coastguard Agency)
- 10.4 The Act contains a similar list of responsible authorities to that contained in the Licensing Act 2003, despite the lack of the corresponding licensing objective of public safety. The result the Act aims to achieve through the inclusion of a wide range of responsible authorities, is one where all relevant regulatory bodies and organisations are made aware of applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make will be relevant to the Licensing Authority's determination.
- 10.5 Equally, in some cases, representations may not relate to matters that lead to the Licensing Authority refusing a premises licence. However, the wide dissemination of applications allows responsible authorities properly to take action under their own legislation and enforcement powers, even if there is no direct role for them in the gambling licence process.
- 10.6 The Act contains no obligation on responsible authorities to respond to applications for premises licences if they do not wish to do so. The Gambling Commission will not normally comment on an application unless it has particular observations to make about the operator. In the absence of response from the Commission, this authority will not assume that the Commission has any view (whether supportive or otherwise) on the merits of the particular premises licence application. We will, of course, be aware of the Commission's views on generic issues as set out in its Guidance.
- 10.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm. The principles are:
- 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.

This Licensing Authority designates the Specialist Children's Services of the Council.

10.8 The contact details of all the responsible authorities under the Act are available via the Council's website at: www.richmond.gov.uk

11. Interested Parties

11.1 Interested parties can make representations about licence applications or apply for a review of an existing premises licence. An interested party, in accordance with s158 of the Act, is a person 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, or
- (c) represents persons who satisfy (a) or (b)

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

Each application will be decided upon its merits. This Licensing Authority will not apply a pre-determined rigid rule to its decision-making, but will consider the examples provided in the Gambling Commission's Guidance for Licensing Authorities. The following provisions may, in a suitable case, provide some guidelines:

a) Persons living close to the premises

The factors that the Licensing Authority will take into account when determining what "sufficiently close to the premises" means might include:

- the size of the applicant's premises;
- the nature of the applicant's premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the circumstances of the complainant, (not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises).

For example, it could be reasonable for an authority to conclude that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems, and (c) a residential hostel for vulnerable adults.

b) Persons with business interests that could be affected

It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But, that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be affected by the premises' under consideration. For example, an operator in a particular sector (be it casino, bingo, betting, etc) should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. This authority will need to be satisfied that the relevant business is likely to be affected. In this respect, we will bear in mind that the 'demand test' from the 1963 and 1968 Acts is not continued in the 2005 Act. Factors that are likely to be relevant include:

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

c) Persons representing those in the above categories

This may include democratically elected representatives such as borough councillors and MP's for whom no specific evidence of being asked to represent an interested party will be required so long as the constituency or ward they represent is likely to be affected.

11.3 In other representative cases such as trade associations, trade unions, residents and tenants associations this Licensing Authority will generally require written evidence that a person 'represents' someone, who either lives sufficiently close to the premises to be likely to be affected by the authorised activities, and, or has business interests that might be affected by the authorised activities. For example, a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises. A letter or email from one of these persons requesting the representation will be sufficient.

11.4 .

11.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

PART B PREMISES LICENCES:

12. Decision making

12.1 Where an individual or company proposes to offer gambling for which an operating licence (issued by the Gambling Commissioner) is required, and which is premises based, that individual or company must also apply for a premises licence. The form to be used in making the necessary application will be found on the council's website at: www.richmond.gov.uk. Premises licences are issued by the Licensing Authority with responsibility for the area in which the premises are situated.

12.2 When determining an application to grant a Premises Licence or review a Premises Licence, the Licensing Authority will have regard to the proximity of the premises to schools, vulnerable adult centres and residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will be considered on its merits. We would expect the applicant to effectively demonstrate how they might promote the licensing objectives, address any relevant guidance issued by the Gambling Commission under section 25 of the Act and be in accordance with any relevant code of practice issued under section 24 of the Act. We would therefore expect a premises risk assessment taking into consideration the locality where the premises are situated.

12.3 Where the premises are located in two or more areas (equally or otherwise), ultimately the applicant may choose which Licensing Authority to apply to. In the rare cases where such premises exist, it will be important that the licensing authorities concerned maintain close contact about the grant of the premises licence, and subsequent compliance (including inspection powers) and other licensing functions. The Licensing Authority to which the premises licence application was made will have jurisdiction and the other(s) will need to pass relevant information about the premises to it.

12.4 In accordance with s153 of the Act, in respect of premises licences the Licensing Authority's primary obligation is to **aim to permit** the use of premises for gambling in so far as it thinks to do so is:

- in accordance with relevant codes of practice issued by the Gambling Commission
- in accordance with guidance issued by the Gambling Commission

- reasonably consistent with the licensing objectives (subject to the two preceding sub-paragraphs) and
- in accordance with the Licensing Authority's statement of licensing policy (subject to the three preceding sub-paragraphs)

12.5 There are five different types of premises licences:

- Casino premises licence (large and small)
- Bingo premises licence
- Betting premises licence including tracks and premises used by betting intermediaries
- Adult gaming centre premises licence (for category B3, C and D machines) and
- Family entertainment centre premises licence (for category C and D machines) (Note that separate to this category, the Licensing Authority may issue a family entertainment centre gaming machine permit which authorises the use of category D machines only.)

12.6 Where an application is made to the Licensing Authority for a premises licence, an interested party or responsible authority may make representations in writing to the Licensing Authority.

12.7 The Licensing Authority must hold a hearing if:

- an interested party or responsible authority has made a representation, and not withdrawn it
- the Licensing Authority proposes to attach a condition to the licence or
- the Licensing Authority proposes to exclude a default condition that would otherwise be attached to the licence.

However, the Licensing Authority may determine an application for a premises licence without a hearing with the consent of the applicant and any interested parties or responsible authorities, or if the Licensing Authority thinks that the representations are vexatious, frivolous, or will certainly not influence the Licensing Authority's determination of the application.

12.8 On considering an application for a premises licence (whether at a hearing or not) the Licensing Authority shall either grant it or reject it. Conditions may be attached to premises licences (see section 18 below). In so doing the Licensing Authority shall consider each individual application on its merits, to the extent that this is required by law.

12.9 In accordance with Gambling Commission Guidance, moral objections to gambling are not a valid reason to reject applications for premises licences, nor will unmet demand be used as a criterion for decision making.

13. Definition of "premises"

13.1 Section 353 of the Act defines "premises" as "any place" which also includes "a vessel" or "a vehicle".

13.2 Section 152 prevents more than one premises licence applying to any place. But there is no reason in principle why a single building could not be subject to more than one premises licence provided they are for different parts of the building and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, track, or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, this Licensing Authority will pay particular attention if there are issues about subdivisions of a single building or plot and will ensure that mandatory conditions issued under section 167 of the Act, relating to access between premises, are observed.

13.3 In most cases the expectation is that a single building/plot will be the subject of an application for a licence: for example, '32 High Street'. But that does not mean that 32 High Street

cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on all the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the authority's licensing officer. However, it should be noted that it is the view of the Gambling Commission that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, cannot properly be regarded as different premises.

13.4 In determining whether two or more proposed premises are truly separate, the Licensing Authority should be aware of factors which could assist them in making their decision. This Authority takes particular note of the Gambling Commission's Guidance for local authorities which states that depending on all the circumstances of the case, these may include:

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

13.5 It is recognised that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence with, for example, the machine entitlements that brings, and are not an artificially created part of what is readily identifiable as a single premises.

13.6 The Act sets out that the type and number of higher stake gaming machines allowable in premises is restricted according to the type of premises licence or permit granted. Reference should be made to Guidance, Codes of Practice and subsequent legislation or Regulations under the Gambling Act 2005.

13.7 With the exception of bingo clubs, tracks on race-days and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.

13.8 In considering such issues, the Licensing Authority will have due regard to any case law and the Gambling Commission's Guidance which states that licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

13.9 The Act contains the objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling'. Children (defined in the Act as under-16s) and young persons (16–17s) may take part in private and non-commercial betting and gaming, but the

Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over, subject to any amendment by the Gambling Commission or Guidance, Codes of Practice and subsequent legislation or Regulations under the Gambling Act 2005. In summary:

- casinos are not permitted to admit anyone under 18
- betting shops are not permitted to admit anyone under 18
- bingo clubs may admit those under 18, but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18
- adult entertainment centres are not permitted to admit those under 18
- family entertainment centres and premises with a liquor licence (for example pubs) can admit under-18s, but they must not play category C machines which are restricted to those over 18
- clubs with a club premises certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- all tracks can admit under-18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place. This was extended to other sporting venues under the Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007. Tracks will be required to have policies to ensure that under-18s do not participate in gambling other than on category D machines.

13.10 Where more than one premises licence is permitted within a building the gaming machine entitlement for the separately licensed premises may not be aggregated and no more than the permitted number and category of machines for the relevant type of premises may be placed in any one of the individual sets of premises within the building.

13.11 The proper application of section 152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo club on week days and a betting shop at weekends.

14 Division of premises and access between premises

14.1 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. For casinos, bearing in mind the wide definition of a street, access might be from a foyer or other area which the public might enter for purposes other than gambling. The precise nature of this public area will depend on the location and nature of the premises. Licensing authorities will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available. Guidance states that Licensing Authorities should, in particular, remember that where they have concerns about the use of premises for gambling, these may be addressed through licence conditions.

14.2 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises to another, except between premises which allow access to

those under the age of 18 and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under-18s can go into family entertainment centres, tracks, pubs and some bingo clubs. So access is allowed between these types of premises.

14.3 It should be noted that the Gambling Act 2005 (Mandatory and Default Conditions) Regulations define street as 'including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not'. This is to allow access, for example, to casinos from hotel foyers.

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

14.5 The relevant access provisions for each premises type is as follows:

Casinos (but see paras 24.1 – 24.2 concerning casinos in Richmond)

- the principal entrance to the premises must be from a street (as defined above)
- no entrance to a casino must be from premises that are used wholly or mainly by children and or young persons
- no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult gaming centres

- no customer must be able to access the premises directly from any other licensed gambling premises

Betting shops

- access must be from a street (as defined above) or from other premises with a betting premises licence
- no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed

Tracks

- no customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo premises

- no customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track.

Family entertainment centres

- no customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

15 Primary gambling activity

- 15.1 By distinguishing between premises types, the Act makes clear that the primary gambling activity of the premises should be described, with lesser gambling activities mentioned as ancillary gambling activities. Thus in a bingo premises the primary activity should be bingo, with the gaming machines as an ancillary attraction to the premises. This principle also applies to converted casino and betting premises licences.
- 15.2 In premises licensed for betting, the facilities provided must include information that enables customers to access details of events on which bets can be made, make such bets, learn the outcome and collect any winnings. Where betting facilities are provided only by machines the number of betting machines must exceed the number of gaming machines made available for use. The Licence Conditions and Codes of Practice (LCCP) consolidated in December 2011 sets out the full requirements on operators. To assist operators of betting premises the Commission has published a document suggesting some of the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.
- 15.3 Should the licensing authority receive an application to vary a premises licence for bingo or betting in order to extend the opening hours, the authority will wish to satisfy itself that the reason for the application is principally to extend the provision of the primary gambling activity. The applicant should therefore be able to demonstrate that the extension of the opening hours is not designed solely or principally to secure additional advantage from the machine entitlement or an activity which is ancillary to the primary gambling activity of the premises, namely betting or bingo.
- 15.4 Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks) the Act does not permit premises to be licensed for more than one of the above activities.

16 Premises ready for gambling

- 16.1 In line with section 7 of Guidance it may be possible to issue a licence for premises that will be completed and ready to be used for gambling in the reasonably near future or subject to a condition that trading in reliance on it being granted shall not commence until the premises are completed in all respects in accordance with the scale plans that accompanied the application. (See section 21 below for greater detail)

17 Location of gambling premises

- 17.1 The Licensing Authority is aware that demand issues cannot be considered with regard to location of premises but considerations in terms of the licensing objectives are relevant. This authority will pay particular attention to the licensing objective of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 17.2 The Licensing Authority will consider very carefully whether applications for premises licences in respect of gambling premises which are located in close proximity to schools, churches, addiction rehabilitation centres, offender hostels, or a primarily residential area (where there is a high concentration of families with children), and those areas with a preponderance for gambling, should be granted in light of the aforementioned objective.
- 17.3 Gambling operators have been required to undertake risk assessments for their premises

since 6th April 2016 (and keep the risk assessment document on site), which should take into account the nature and characteristics of the locality in which they are situated. Such risk assessments have to consider the Borough's Local Area Profile, which maps reported gambling-related problems in any area of the Borough. A Local Area Profile is designed to increase awareness of identified detailed risks, to inform operators with constructive engagement when completing risk assessments and to allow them to address identified local risks.

- 17.4 Each case will be decided on its merits, and the outcome will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how any licensing objective concerns can be overcome, that will be taken into account by the Licensing Authority in arriving at its decision.

18 Duplication

- 18.1 This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This Licensing Authority will not consider whether a premises licence application is likely to be awarded planning permission or building regulations approval. It will though, listen to and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should the situation arise.
- 18.2 When dealing with a premises licence application for finished buildings, this Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under other legislation and do not form part of the consideration for a premises licence under the Act.

19 Licensing objectives

- 19.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to licensing authorities.

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

- 19.2 The Gambling Commission will take the leading role in preventing gambling from being a source of crime.
- 19.3 Nevertheless, the Licensing Authority will need to pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of organised crime this Licensing Authority will consider carefully whether gambling premises should be located there and whether the imposition of conditions, such as the provision of door supervisors, may be suitable or sufficient.
- 19.4 This Licensing Authority makes a clear distinction between disorder and nuisance. Disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder will include whether police assistance was required or how threatening the behaviour was to those who could see or hear it. Issues of public or statutory nuisance cannot be addressed under the provisions of the Act.
- 19.5 In addition, when considering an application this authority will take into account:
- the design and layout of the premises
 - security features at the premises such as CCTV and position of cash registers

- if relevant, the procedures in place to conduct age verification checks
- the likelihood of any violence, public order or policing problems if the licence was granted

19.6 Generally the Gambling Commission does not expect licensing authorities to become involved with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence (issued by the Gambling Commission), or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence (issued by the Gambling Commission).

Ensuring that gambling is conducted in a fair and open way

19.7 However, in relation to ‘tracks’ (defined by s 353 as “a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place”) the Licensing Authority may need to consider this objective as the track operator will not necessarily have an operating licence.

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

19.8 This objective is concerned with preventing children from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. ‘Child’ means an individual who is less than 16 years of age. ‘Young person’ means an individual who is not a child but who is less than 18 years of age.

19.9 The Licensing Authority will consider whether specific measures (i.e. conditions) are needed to protect children on particular categories of premises and in particular tracks. For example:

- Supervision of entrances
- Segregation of gambling areas frequented by children
- Supervision of gaming machines in licensed family entertainment centres.

19.10 This Licensing Authority will also ensure that where category A, B or C 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 an entrance designed for that purpose;
- access to the area where the machines are located is supervised to ensure that under-18s do not enter the area;
- the area where these machines are located is arranged so that all parts can be observed either by::
- one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
- CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas; and
- at the entrance to any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

19.11 In respect of particular premises, the Licensing Authority will also need to consider whether any special considerations need to apply in relation to the protection of vulnerable persons. The Gambling Commission does not offer a definition of ‘vulnerable persons’ but states it will for regulatory purposes assume that this group includes “people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case-by-case basis.

20 Premises licence conditions

20.1 Conditions may be attached to premises licences in the following ways:

- Automatically - having been set out on the face of the Act
- The Secretary of State may by regulations provide that specified conditions must be attached to premises licences (mandatory conditions)
- The Secretary of State may by regulation prescribe for a specified condition to be attached to any premises licence unless excluded by the Licensing Authority (default conditions); e.g. maximum hours of gambling activity at the premises
- Attached by the Licensing Authority

20.2 The Licensing Authority notes that it is the Commission's view that the conditions necessary for the general good conduct of gambling premises will be those set as default and mandatory conditions by the Secretary of State. The Licensing Authority may consider on a case-by-case basis attaching conditions where there are regulatory concerns of an exceptional nature and any additional licence conditions must relate to the licensing objectives. Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Licensing Authority may choose to attach individual conditions to address this and applications for premises licences should not be turned down where relevant objections can be dealt with through the use of conditions.

20.3 A condition attached to the licence by the Licensing Authority may apply in relation to the premises generally or only in relation to a specified part of the premises.

20.4 Any conditions attached to premises licences by the Licensing Authority should be proportionate and:

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

20.5 Decisions upon individual conditions will be made on a case-by-case basis, this will be in line with any general policy set out in the Guidance or within this Statement of Principles although there will be a number of measures this Licensing Authority will consider using should there be a perceived need, such as the use of door supervisors, appropriate signage for adult areas only etc. However, conditions relating to the need for door supervisors will only be required if there is clear evidence that the premises cannot be adequately supervised otherwise and that door supervision is necessary and proportionate.

20.6 This 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.

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

20.8 Conditions that the Licensing Authority cannot attach to premises licences are:

- any condition on the premises licence that 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

20.9 The sub-committee may make a door supervision condition where it is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example children and young persons) as long as it is both necessary and proportionate in terms of the licensing objectives.

21 Relationship between planning permission, building regulations and granting of a premises licence

21.1 In determining applications the Licensing Authority has a duty to consider all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Guidance states that Licensing Authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. This is why 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. See part 11 of Guidance and section 22 of this policy for more information about provisional statements.

21.2 As the High Court held in a 2008 case², operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and Licensing Authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, Licensing Authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a Licensing Authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. An authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

21.3 For example, where the operator has still to undertake final fitting out of the premises, but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations³. The application form allows the applicant to suggest a commencement date and the notice of grant allows the Licensing Authority to insert a date indicating when the premises licence comes into effect. In other cases it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations should be able to comment on the changes made. See part 9 of this Guidance for more information about licence conditions.

21.4 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the

¹ The Queen (on the application of) Betting Shop Services Limited –v- Southend-on-Sea Borough Council [2008] EWHC 105 (Admin)

³ SI 2007/459 Premises Licensing and Provisional Statements Regulations
SI No. 196: The Gambling Act 2005 (Premises Licences and Provisional Statements)(Scotland) Regulations 2007

applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either make a fresh application under section 159 or seek an amendment to a detail of the licence under section 187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under section 187 is not possible. For this reason, and while this is a matter of judgement this Licensing Authority considers it would be more appropriate in the case of any material post grant change for the applicant to make a fresh application under section 159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

- 21.5 The Licensing Authority will need to be satisfied in any individual case that the completed works comply with the original, or changed, plan attached to the premises licence. Depending upon circumstances, we consider that this could be achieved either through physical inspection of the premises or written confirmation from the applicant or surveyor that the condition has been satisfied.
- 21.6 Requiring the building to be complete before trading commences would ensure that the authority could, if considered necessary, inspect it fully, as could other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of higher stake gaming machines in premises to which children have access will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements.
- 21.7 If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, this Licensing Authority will consider whether, applying the two stage approach advocated in paragraph [7.60] of Guidance, and paragraph 21.2 above, it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. Licensing Authorities may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for, say, an application that the authority did not think was grantable, when it seems likely at an early stage that a provisional statement might be the better option.
- 21.8 When dealing with a premises licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Nor will fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 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.

22 Provisional statements

- 22.1 Section 204 of the Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- expects to be constructed
 - expects to be altered
 - expects to acquire a right to occupy

- 22.2 Developers may wish to apply for provisional statements before they enter into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. It is also possible for an application for a provisional statement to be made for premises that already have a premises licence (either for a different type of gambling or the same type).
- 22.3 Applicants for premises licences must fulfil certain criteria. They must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track), and they must have the right to occupy the premises in respect of which their premises licence application is made. However, these restrictions do not apply in relation to an application for a provisional statement. In circumstances in which an applicant has also applied to the Commission for an operating licence, the Commission will not be able to comment on whether the application is likely to be granted; and this authority will not speculate on or otherwise take into account the likelihood of an operating licence being granted in its consideration of the application for a provisional statement.
- 22.4 An application for a provisional statement must be accompanied by plans and the prescribed fee. Licensing authorities in England and Wales set their own provisional statement fees up to a pre-determined maximum.
- 22.5 Subject to any necessary modifications (and the differences already set out in paragraph 11.2), the process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal. Please note that the provisions in the Act relating to provisional statements are not the same as those in the Licensing Act 2003.
- 22.6 Once the premises are constructed, altered, or acquired the holder of a provisional statement can put in an application for the necessary premises licence. A premises licence application for a premises where the applicant already holds a provisional statement for that premises attracts a lower application fee. Section 205 of the Act sets out rules on how the authority must treat this application. Licensing authorities should note that, in the absence of a requirement that an applicant for a provisional licence must have the right to occupy the premises, there may be more than one valid provisional statement in respect of the same premises.
- 22.7 If a provisional statement has been granted, the Licensing Authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises.
- 22.8 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.
- 22.9 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by way of representations at the provisional licence stage
 - which, in the authority's opinion, reflect a change in the operators circumstances
 - where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision
- 22.10 Section 210 of the Act (which applies to premises licences and provisional statements)

makes it clear that a Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

23 Review of premises licences by Licensing Authority

- 23.1 A premises licence may be reviewed by the Licensing Authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the Licensing Authority to review a particular licence. Reviews cannot be delegated to an officer of the Licensing Authority – the lowest level of delegation permitted is to a licensing sub-committee.
- 23.2 Section 200 of the Act provides that Licensing Authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted.
- 23.3 In relation to a class of premises, the Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the authority would most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause them to want, for example, to look at the default conditions that apply to that category of licence.
- 23.4 In relation to particular premises, the Licensing Authority may review any matter connected with the use made of the premises if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives them cause to believe that a review may be appropriate.
- 23.5 A formal review would normally be at the end of a process of ensuring compliance by the operator. If the operator does not meet the requirements then, after a formal review, the Licensing Authority may impose additional conditions or revoke the licence.
- 23.6 The Licensing Authority will give notice in writing to the licence holder that it intends to undertake a review, and must also publish notice of its intention to carry out the review. Regulations⁴ for reviews state that the notice should be published in a local newspaper at least once in the ten working days following the day on which the application to review was made to the authority, or should be published on the Licensing Authority's website and remain there for 28 consecutive days starting from receipt of the application to review. In addition, regulations state that the notice must also be displayed outside the premises itself, and remain there for the 28 days referred to above.

⁴ SI No. 2258: The Gambling Act 2005 (Premises Licences)(Review) Regulations 2007

PART C

PREMISES LICENCES: TYPES OF PREMISES LICENCES

The Gambling Act 2005 and its Guidance (as amended) applies to applications for all types of premises licence and it should be noted that certain types of licence include mandatory conditions, and that there are regulations and guidance on maintenance, cancellation and forfeiture, renewal, and appeals. This is not an exhaustive list and it is for applicants to ensure they are fully aware of the requirements relating to each type of licence for which they apply.

24 Casino premises

A “casino” is “an arrangement whereby people are given an opportunity to participate in one or more casino games. A wholly automated gaming table is not a “gaming table”. The permitted number of machines in each category will depend on whether it is a, large or small casino.”

24.1 The number of new casinos under the act was fixed at 1 regional, 8 large, and 8 small casinos. The Licensing Authority recognises that the Government may choose, in the future, to allow more casinos. Therefore in November 2006 the Council passed a resolution not to issue casino premises licences. The resolution took effect from the date of publication of the first Statement of Principles for a period of three years. The no Casino resolution was re-adopted for a further three years in 26 February 2013. Such a resolution may be revoked at any time by a further resolution. If re-adopted, any application received by the Licensing Authority shall be returned.

24.2 As indicated, following consultation the Regulatory Committee recommended the Council to re adopt the ‘no casino’ resolution. There are currently no new casino licences available in any event and current UK legislation would need to be changed for any additional casinos licences to be created. In making the recommendation the Regulatory Committee considered the following matters:

- Consultation responses showed that the majority of respondents did not want a casino in the borough
- Absence of an apparent demand by the gambling industry for a casino in the borough
- No regeneration issues
- The view of Members

25 Bingo premises

“Bingo” means “any version of that game, irrespective of by what name it is described.” – s353 of the Act. Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines. This applies to cash or prize bingo.

25.1 The Licensing Authority will have particular regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. Where children are allowed to enter premises licensed for bingo, it is important that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, the Licensing Authority will ensure that:

- all such machines are located in an area of the premises separate 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 the machines are located
- access to the area where the machines are located is supervised
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
- at the entrance to, and inside any such area there are prominently displayed notices

indicating that access to the area is prohibited to persons under 18

25.2 The Licensing Authority will have due regard to any guidance issued by the Gambling Commission in respect of bingo premises. This includes the need for Licensing Authorities to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

25.3 A single licensed bingo premises is entitled (subject to the provisions of the sub-paragraph below) currently to provide a number of Category B gaming machines not exceeding 20 per cent of the total number of gaming machines which are available for use on the premises, and an unlimited number of category C and D gaming machines, subject to any Guidance, Codes of Practice or Regulation changes. These gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it would not be permissible, were the application to be granted, for all of the gaming machines so permitted to be grouped together within one of the licensed premises.

25.4 Premises in existence before 13 July 2011 are entitled to make available eight category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

25.4 There are certain exceptions for clubs, institutes and alcohol licensed premises from needing a bingo premises licence for low turnover (see Part 12 of the Act).

26 Adult gaming centre premises

An “adult gaming centre” means “premises in respect of which an adult gaming centre premises licence has effect.” – s237 of the Act. Adult gaming centres cannot admit those under 18.

26.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Particular regard may be given to the location of and entry to Adult Gaming Centres.

26.2 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. 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 Gam Care

26.3 This list is not mandatory, nor exhaustive, and is merely indicative of the kinds of measures that might be proposed for such premises.

26.4 Subject to any change in Guidance, Codes of Practice or Regulation changes or Gambling Commission decisions, section 172(1) of the Act provides that the holder of an adult gaming centre premises licence may make available (subject to the provisions of the sub-paragraph below) for use a number of Category B gaming machines not exceeding 20 per cent of the total number of gaming machines which are available for use on the premises; any number of category C machines; and any number of category D machines. Regulations specify that the category B machines should be restricted to sub-category B3 and B4 machines.

26.5 Premises in existence before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. AGC premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

26.6 Where the operator of an existing AGC premises licence applies to vary the licence and acquire additional AGC premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises), it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises. So for example, where two separate AGC premises have been created adjacent to each other by pre-existing premises in a way that the authority has approved, it would not be permissible to locate eight category B3 gaming machines in one of the resulting premises (with none in the other), as the gaming machine entitlement for that premises would be exceeded.

27 Licensed family entertainment centre premises

A “family entertainment centre” means a “premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use.” A “licensed family entertainment centre” means a “premises in respect of which a family entertainment centre premises licence has effect.” – s238 of the Act. Family Entertainment centres can admit those under 18 years of age, but they must not play category C machines.

27.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. There must be clear segregation between the category C and category D machines, so that children do not have access to category C machines.

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

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

27.3 This list is not mandatory, nor exhaustive, and is merely indicative of the kinds of measures that might be proposed for such premises.

27.4 This Licensing Authority will in accordance with the Gambling Commission’s guidance refer to

the Commission's website for conditions applying to operating licences in the way in which the area should be described where Category C machines are sited. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences.

28 Betting premises

"A betting premises licence" means "the provision of facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for making or accepting of bets." – s150(1)(e) of the Act. Betting means "making or accepting a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring, or; whether anything is or is not true." – s9(1) of the Act. The machines available for use at betting premises are gaming machines and betting machines. Persons under the age of 18 will not be able to enter premises with a betting premises licence, although special rules apply to tracks.

Betting machines are designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

A "gaming machine" means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

28.1 When considering whether to impose a condition to restrict the number of betting machines, their nature and the circumstances in which they are made available for use, the Licensing Authority may consider the following factors:

- size of the premises
- number of counter positions available for person-to-person transactions and
- ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer, and
- licensing objectives

28.2 The authority notes that it is the view of the Gambling Commission that it is not permissible for an operator to provide four category B2 gaming machines on the premises, but not to offer any facilities for betting on the premises. A betting operating licence authorises its holder to 'provide facilities for betting' (section 65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...' (Section 150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (section 172(8) of the Act); it is not a free standing right to make gaming machines available for use. The Licensing Authority takes the view that unless a betting premises operator offers facilities for betting it should not be making gaming machines available on the premises in question.

28.3 The Licensing Authority also accepts the Commission's view that it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises. Thus, whilst the Licensing Authority recognises that betting premises are permitted to offer gaming machines, including B2 gaming machines, the Licensing Authority considers that betting should be a core element of the gambling facilities being offered to customers in such premises.

28.4 Betting may be provided by way of betting terminals or over a counter (face to face). By 'betting terminals' the Licensing Authority means machines that only permit the customer to place bets on future live events (e.g. a horse race or a football game). If a machine allows betting on virtual events it becomes a gaming machine, as set out in section 235 of the Act.

Bets taken over the counter may be bets on real or virtual events.

29 Tracks

A “track” means “a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place.” – s353 of the Act. Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

Persons under the age of 18 are excluded from any areas where facilities for betting are provided and any area where there are gaming machines, other than category D machines. However, persons under the age of 18 are not excluded from such areas where facilities for betting are provided in relation to dog tracks and horse racing courses on race days only (the exclusion still applied to areas where there are gaming machines other than category D). There is no exclusion of race days in relation to gaming machines, although persons under the age of 18 are not prohibited from playing category D gaming machines on a track.

- 29.1 Track operators do not need to have an operating licence (although they may have one), as the betting that is provided upon the tracks will not be provided by the track operator (a licence is required if the track operator wants to provide pool betting or general betting facilities himself). Individual operators who come onto the track on race days do not need to hold a premises licence but will require the necessary operating licences. Where there is no operating licence, the premises licence will need to contain requirements on the premises licence holder about their responsibilities in relation to the proper conduct of betting.
- 29.2 Tracks are the only premises which may be subject to more than one premises licence, provided that each licence relates to a specified area of the track. There may be a primary (betting) premises licence for the track and, in addition, subsidiary premises licences for other gambling activities. Tracks are recognised as multi-purpose venues having a wide range of facilities and primarily premises intended for entertainment other than gambling.
- 29.3 Tracks are distinguished from other betting premises licences under the Act because children and young persons are allowed to be present on the track while betting is taking place on those licensed premises. Therefore, the Licensing Authority will specifically consider the impact upon the protection of children and vulnerable persons from being harmed or exploited by gambling, in particular the need to ensure that entrances to each type of premises are distinct and that children are excluded from accessing gambling areas where they are not permitted to enter (other than category D machines).
- 29.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. 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 Gam Care
- 29.5 This list is not mandatory, nor exhaustive, and is merely indicative of the kinds of measures that might be proposed for such premises.
- 29.6 Scale plans, (no specific scale) must be submitted with any application for a track premises licence. The precise location of where betting facilities are provided is not required to be

shown but the main areas for betting should be. As the plan forms part of the licence it needs to be sufficiently flexible to ensure that a relatively small change in the premises layout would not require the operator to apply to vary the licence.

Gaming Machines

29.7 The Licensing Authority will take into account guidance and codes of practice from the Gambling Commission with regard to where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting Machines

29.8 When considering whether to impose a condition to restrict the number of betting machines, their nature and the circumstances in which they are made available for use, the Licensing Authority may consider the following factors:

- size of the premises
- ability of staff to monitor the use of the machines by children and young persons or by vulnerable people

30 Travelling fairs

A “fair” means “fair consisting wholly or principally of the provision of amusements,” and a fair held on a day in a calendar year is a “travelling fair” if provided “wholly or principally by persons who travel from place to place for the purpose of providing fairs, and at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.” – s286 of the Act. There is no limit on category D machines for travelling fairs. Persons under the age of 18 may use category D machines at travelling fairs.

30.1 This Licensing Authority will determine whether the provision of Category D machines and or equal chance prize gaming without a permit available for use at a travelling fair amounts to no more than an ancillary amusement at that fair.

30.2 The 27-day statutory maximum for land being used for fairs is per calendar year. It applies to the piece of land on which the fair is held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

PART D

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES

31 Introduction

31.1 Permits are required when premises provide a gambling facility where either the stakes and prizes are very low or gambling is not the main function of the premises. Holders of permits for gambling need to comply with codes of practice, published by the Gambling Commission on the location and operating of machines.

31.2 It is the responsibility of the Licensing Authority to issue:

- Unlicensed Family Entertainment Centre gaming machine permits
- Club gaming permits and club machine permits
- Alcohol-licensed premises gaming machine permits
- Prize gaming permits

32 Unlicensed family entertainment centre gaming machine permits

A “family entertainment centre” means “premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use” – s238 of the Act. Unlicensed FECs will be able to offer only category D machines in reliance on a gaming machine permit. Persons under the age of 18 may use the category D machines.

32.1 The determination in relation to a Family Entertainment Centre Gambling Machine Permit is taken by an officer of the Licensing Authority. Prior to making its determination, the Licensing Authority must be satisfied that the applicant will use the premises, wholly or mainly as an unlicensed family entertainment centre (see definition above) and must consult with the Police. The Licensing Authority may grant or refuse the permit but cannot attach conditions. If the decision is made to grant the permit, it should be issued as soon as is reasonably practicable. It is a requirement that the Licensing Authority notify an applicant of its intention to refuse and provide reasons. The applicant will be given an opportunity to make oral or written representations (or both). If the decision is then taken to refuse the application for a permit, the Licensing Authority must notify the applicant of the refusal and reasons for it.

32.2 The Licensing Authority is required under the Act to state the principles it will apply in exercising its functions in relation to unlicensed family entertainment centres. In particular it must specify the matters that the Licensing Authority proposes to consider in determining the suitability of an applicant for a permit. The principles are as follows:

- (a) The Licensing Authority need not (but may) have regard to the licensing objectives, but must have regard to Guidance.
- (b) Given that the premises will particularly appeal to children and young persons, in considering what to take into account, the Licensing Authority will give weight to child protection issues. The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling, but includes wider child protection considerations. Policies and procedures could include issues such as:
 - Measures / training for staff as regards suspected truanting school children on the premises
 - Measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises

(c) The Licensing Authority will expect applicants to demonstrate:

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

33 (Alcohol) Licensed premises gaming machine permits

Operators of premises with an on-premises alcohol licence granted pursuant to the Licensing Act 2003 have an automatic right to have 2 gaming machines of category C or D. The operator of the premises merely needs to notify the Licensing Authority. However, a permit is required if the applicant seeks to have more than two machines. A permit authorises the number of C or D machines as specified on the permit. Premises with a liquor licence (e.g. pubs) can admit persons under 18. Persons under 18 may not play category C machines, but may play category D machines.

- 33.1 The determination in relation to a Licensing Premises Gaming Machine Permit is taken by an officer of the Licensing Authority. Prior to making its determination, the Licensing Authority must be satisfied that the applicant holds an on-premises alcohol licence (there is no requirement to notify the Police). The Licensing Authority may grant the permit, refuse the permit or grant in respect of a smaller number or different category of machines from that specified in the application (or both). No conditions can be attached to this permit. If the decision is made to grant the permit, it should be issued as soon as is reasonably practicable. The Licensing Authority must notify an applicant of its intention to refuse or grant for a smaller number and or different category of machines and must provide its reasons. The applicant will be given an opportunity to make oral or written representations (or both). If the decision is taken to refuse the permit, then reasons must be given. An applicant will not be given an opportunity to make representations if the refusal was by virtue of not holding an on-premises alcohol licence.
- 33.2 The Licensing Authority shall consider the application for a permit having regard to the licensing objectives, any relevant Guidance and other such matters as it thinks fit. The Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally it shall have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The grant of a permit for more than two machines will need to include the two machines that would normally require a notification, as the notification is effectively replaced by the grant of the permit (s282 Gambling Act 2005).
- 33.3 The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines (category C machines). Such measure may include:
- having category C machines in sight of the bar or in sight of staff who will monitor that the machines are not being used by those under 18 years of age
 - notices / signage
 - having category C machines in a separate area
- 33.4 In relation to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Gam Care.
- 33.5 The Licensing Authority can remove the automatic authorisation to have two gaming machines 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 Act

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

33.6 The Licensing Authority must give the permit holder 21 days' notice of the Licensing Authority's intention to consider cancelling or varying the permit. It must then consider any representation from the permit holder and hold a hearing if they request it.

33.7 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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

34 Prize gaming permits

Gaming is "prize gaming if neither the nature nor the size of a prize played for is determined by reference to the number of persons playing or the amount paid for or raised by the gaming" - s288 of the Act. Persons under the age of 18 may participate in equal chance prize gaming only. "Gaming is equal chance gaming if it does not involve playing or staking against a bank and the chances are equally favourable to all participants" - s8 of the Act.

34.1 The determination in relation to a Prize Gaming Permit is taken by an officer of the Licensing Authority. Prior to making its determination, the Licensing Authority must consult with the Police. The Licensing Authority may grant or refuse the permit but cannot attach conditions. If the decision is made to grant the permit, it should be issued as soon as is reasonably practicable. It is a requirement that the Licensing Authority notify an applicant of its intention to refuse and provide reasons. The applicant will be given an opportunity to make oral or written representations (or both). If the decision is then taken to refuse the application for a permit, the Licensing Authority must notify the applicant of the refusal and reasons for it.

34.2 The Licensing Authority is required under the Act to state the principles it will apply in exercising its functions in relation to prize gaming permits, in particular specify the matters that the Licensing Authority proposes to consider in determining the suitability of an applicant for a permit. The principles are as follows:

- (a) The Licensing Authority need not (but may) have regard to the licensing objectives, but must have regard to Guidance
- (b) Given that the premises will particularly appeal to children and young persons, in considering what to take into account, the Licensing Authority will give weight to child protection issues
- (c) The Licensing Authority will expect applicants to demonstrate:
 - that they understand the limits to stakes and prizes that are set out in Regulations
 - that the gaming offered is within the law
 - clear policies that outline the steps to be taken to protect children from harm
- (d) The Licensing Authority will give due weight to representations from the police relevant to the licensing objectives. Relevant considerations include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and issues about disorder

34.3 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

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

35 Club Gaming and Club Machines Permits / Miners' Welfare Institutes

Definition of club gaming permit: A members' club or miners' welfare institute may apply to the Licensing Authority for a club gaming permit which authorises the establishment to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

Definition of club machine permit: A members' club, commercial club or miners' welfare institute may apply to the Licensing Authority for a club machine permit. This is more limited than a full club gaming permit.

No person under the age of 18 shall use category B or C machines on the premises and the holder must comply with any relevant provision of a Gambling Commission code of practice about the location and operation of gaming machines.

- 35.1 The determination in relation to a Club Gaming Permit or a Club Machine Permit is taken by an officer of the Licensing Authority where there is no objection or they have been withdrawn; otherwise by a sub-committee of the Licensing Committee where objections have been made and not withdrawn. An applicant must send a copy of the application and accompanying documents to the Gambling Commission and the Chief Officer of Police who may object. The Licensing Authority may grant or refuse the permit, but cannot attach conditions.
- 35.2 The Licensing Authority may only refuse an application for a club gaming permit or club machine permit on the following grounds (having regard to the Guidance and licensing objectives):
- (a) That the applicant does not fulfil the requirements of 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) That the applicant's premises are used wholly or mainly by children and or young persons
 - (c) That an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the Police
- 35.3 If the Licensing Authority is satisfied that (a) or (b) above is the case, it must refuse the application. As regards the first ground, the authority will take note of paragraphs 25.47 – 25.49 of the Commission's Guidance as to matters to take into account when determining that a club meets the statutory qualifying requirements. Such matters will include: the club's constitution, the frequency of gaming, and ensuring that there are more than 25 members. The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is in bridge and whist, licensing authority notes paragraphs 25.47 – 25.51 of the Commission's Guidance (September 2012) as to matters to take into account when determining that a club meets the statutory qualifying requirements. These include the club's constitution; the frequency of gaming; and ensuring that there are more than 25 members. The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is by way of a bridge and whist club, in which case it will be covered by separate regulations made by the Secretary of State.

35.4 There is a fast-track procedure for clubs which hold a club premises certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police. The grounds on which an application under this 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

36 Temporary use notices

“Temporary Use Notices” allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling (for example, use by hotels, conference centres and sporting venues). It is a notice given by the holder of an operating licence that states his / her intention to carry on one or more specified prescribed activities.

36.1 A “set of premises” (section 218(8)) may not be the subject of temporary use notification for more than 21 days in a period of 12 months, but may be the subject of several notices providing that the total does not exceed 21 days.

36.2 Reference to “a set of premises” prevents one large premises from having a temporary use notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock. The definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. The Licensing Authority will look at, amongst other things, the ownership/occupation, layout and control of the premises.

36.3 This authority will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

37 Occasional use notices

Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.

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

38 Small Society Lotteries

A lottery is an arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under section 14 of the Act. An arrangement is a simple lottery: if persons are required to pay to participate, one or more prizes are allocated to one or more members of a class, and the prizes are allocated by a process which relies wholly on chance.

38.1 Where the licensing authority is approached by societies who want to register to operate a lottery, it will need to refer to the Act’s definition of a small society lottery, which falls into two distinct areas:

- society status – the society in question must be ‘non-commercial’

- lottery size – the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000.

If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.

- 38.2 The Commission has published a series of advisory documents, to which applicants or potential applicants may be referred to enable them to establish which type of lottery they plan to operate. *Promoting society and local authority lotteries* provides information for those seeking to run small and large society lotteries and local authority lotteries. *Organising small lotteries* provides advice on exempt lotteries that do not require a licence or registration. The Commission has also published a leaflet for fundraisers, to help them identify what types of lottery they can run. All documents are available on the Commission's website.
- 38.3 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. Parts four and five of Schedule 11 of the Act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.
- 38.4 The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the authority believes that a society's principal office is situated in another area, it will inform the society and the other authority as soon as possible.
- 38.5 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the authority to assess the application accordingly. In each case it will be helpful for new applicants for a copy of their terms and conditions and their constitution to establish that they are a non-commercial society. We may also choose to require applicants to provide a declaration, stating that they represent a bona-fide non-commercial society.
- 38.6 The Commission has apparently been made aware that some small society lotteries may be avoiding applying for a society lottery operating licence from the Commission by obtaining two or more registrations with the same or different local authorities. In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11, Part 4 of the Act.
- 38.7 Where a society applies for more than one registration, care will be taken to ensure that the applicant societies have separate and different aims and objectives. Where a society applies for more than one registration, the aims and objectives of the applicant societies are the same and the combined proceeds are likely to exceed the threshold limits for small society lotteries, the applicant will be advised to apply to the Commission for a society lottery operating licence, instead of obtaining society lottery registrations with the local authority.
- 38.8 The licensing authority may delegate the registration of small societies to licensing officers, (subject to our own process of delegations). Licensing authorities are required by paragraph 44 of Schedule 11 of the Act to record details of the society on a register. The register will be made available to the public on request.
- 38.9 Once an application for registration has been accepted and entered on the local register, the licensing authority will then notify both the applicant and the Commission of this registration as soon as practicable. Registrations run for an unlimited period, unless the registration is cancelled.

38.10 Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for licensing authorities to refuse a small society lottery registration application. In summary, licensing authorities may propose to refuse an application for any of the following reasons:

- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years.
- The society in question cannot be deemed non-commercial.
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant or misleading.

38.11 The authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The authority will inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion – in order to enable representations to be made. Representations and objections that may result after such a decision will be handled in accordance with local procedures, and in the same way that the authority would handle representations relating to other licensing matters.

38.12 The licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of an operator:

- submission of late returns (returns must be submitted within three months of the date that a lottery was drawn)
- submission of incomplete or incorrect forms
- breaches of the limits for small society lotteries.

39 Permitted and exempt gaming in clubs and alcohol licensed premises

39.1 Permitted gaming is equal chance and other gaming permissible through the grant of a club gaming permit (see section 35 above).

39.2 Exempt gaming is equal chance gaming permissible in any club or alcohol-licensed premises. Such gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes, prize and participation fee limits set by the Secretary of State. Such gaming should be supervised by a nominated gaming supervisor and comply with any code of practice issued by the Gambling Commission. Relevant premises may not charge a rake on games or levy or deduct an amount from stakes or winnings.

39.3 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants; it includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Stakes in games of chance or poker in alcohol licensed premises are subject to limits set by Regulations.

39.4 If gaming is the principal reason for attendance at a club (other than a dedicated bridge and whist club, (those two forms of gaming are the only prescribed kinds of gaming) then it is not exempt under the Act. This would include poker clubs established primarily for the purpose of providing poker or other gaming. Such clubs require operating and premises licences.

APPENDIX A

SUMMARY OF LICENSING AUTHORITIES DELEGATIONS PERMITTED UNDER THE GAMBLING ACT 2005

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

List of Responsible Authorities for New or Variation Applications for a Premises Licence under the Gambling Act 2005.

The Licensing Authority

The London Borough of Richmond upon Thames, 2nd Floor, Civic Centre, 44 York Street, Twickenham TW1 3BZ.

The Gambling Commission

Victoria Square House, Victoria Square, Birmingham B2 4BP.

Chief Officer of Police

The Metropolitan Police, Richmond Police Licensing Team, Twickenham Police Station, 41 London Road, Twickenham, Middlesex TW1 3SY

The Fire Authority

London Fire Brigade, Fire Safety Regulations, South West Area 4, 169 Union Street, London SE1 0LL.

The Local Planning Authority

The London Borough of Richmond upon Thames, 2nd Floor, Civic Centre, 44 York Street, Twickenham TW1 3BZ.

Commercial Environmental Health

The London Borough of Richmond upon Thames, 2nd Floor, Civic Centre, 44 York Street, Twickenham TW1 3BZ

Children's Services

The London Borough of Richmond upon Thames, Child Protection Manager, Education and Children's Cultural Services, 1st Floor, 42 York Street, Twickenham TW1 3BW.

HM Revenue and Customs

HM Revenue and Customs Excise Processing Teams BX9 1GL United Kingdom