

Report Title:	Review and Republishing of RBWM's Gambling Act 2005 Statement of Principles
Contains Confidential or Exempt Information?	No – Part I
Member Reporting:	Councillor M. Airey, Lead Member for Environmental Services (including parking, flooding, housing and performance management)
Meeting and Date:	Extraordinary Full Council 28 January 2019
Responsible Officer(s):	Andy Jeffs, Executive Director David Scott, Head of Communities, Enforcement and Partnerships
Wards Affected:	All



REPORT SUMMARY

1. RBWM is a “licensing authority” under the Gambling Act 2005. Such authorities are required to publish a Statement of Principles every three years. The current Statement is about to expire and a new RBWM Gambling Act Statement Principles 2019 – 2022 has been produced.
2. This report presents the RBWM Gambling Act Statement Principles 2019 – 2022 for endorsement by Full Council following agreement at the Licensing Panel held 8 January 2019 to recommend approval.

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Full Council notes the report and endorses the recommendation from the Licensing Panel that the RBWM Gambling Act 2005 Statement of Principles 2019 – 2022 be approved for immediate implementation.

2. REASONS FOR RECOMMENDATIONS AND OPTIONS CONSIDERED

- 2.1 The Gambling Act 2005 requires that licensing authorities produce and publish a Statement of Principles. This policy is required to be reviewed and republished every three years and that time has now arrived.
- 2.2 The Statement is required to demonstrate how the licensing authority will implement the three licensing objectives under the Gambling Act 2005 which are;
 - Preventing gambling being a source of, or associated with, crime and disorder
 - Ensuring gambling is conducted in a fair and open way
 - Protecting children and other vulnerable people from being harmed or exploited by gambling.
- 2.3 The 2015 – 2018 RBWM Statement of Principles has been reviewed and updated. No major changes were required but the updated Statement is clearer and easier to use and understand. The changes made are set out in Appendix

A and the new RBWM Gambling Act 2005 Statement of Principles 2019 – 2022 is found at Appendix B.

- 2.4 On 8 January 2019 the RBWM Licensing Panel unanimously endorsed the new Statement of Principles, subject to one textual amendment which has been made, and recommended it to Full Council.
- 2.5 The RBWM Constitution specifically requires that this policy is endorsed and adopted by Full Council – see Part 2 THE FULL COUNCIL, A - Council Terms of Reference, 1.1 Functions of Full Council, 1 (d) Licensing Authority Policy Statement under the Gambling Act 2005).

3. KEY IMPLICATIONS

- 3.1 See Legal Implications, below.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 None arising from the adoption of these refreshed Statement of Principles.

5. LEGAL IMPLICATIONS

- 5.1 By endorsing the new Statement of Principles, Full Council will ensure that RBWM is complying with its statutory duty under section 349 of the Gambling Act 2005 for licensing authorities to review and republish their Statement of Principles every three years. The current RBWM 2015 – 2018 will expire and be replaced by this new 2019 – 2022 policy.

6. RISK MANAGEMENT

- 6.1 Theoretically any policy is open to legal challenge. However, this Statement of Principles has been consulted on by all relevant parties, including the Gambling Commission, and so no challenge is anticipated.

7. POTENTIAL IMPACTS

- 7.1 No EQIA is anticipated at this stage.

8. CONSULTATION

- 8.1 There is a requirement that licensing authorities consult with the public and interested parties when reviewing and republishing its Gambling Act 2005 Statement Principles. That consultation has taken place by means of a notice published in local newspapers and direct consultation with the following bodies;
 - The Gambling Commission
 - Thames Valley Police
 - East Berkshire Fire and Rescue Service
 - The Planning Authority (RBWM)
 - Environmental Protection (RBWM)
 - Local Safeguarding Children (LSCB)
 - HM Revenue and Customs
 - Public Health

8.2 There have been no responses to this consultation.

9. TIMETABLE FOR IMPLEMENTATION

9.1 If Full Council agrees to endorse the RBWM Gambling Act Statement Principles 2019 – 2022 it will come into force on 31 January 2019

10. APPENDICES

Appendix A – Changes from the Statement of Principles 2015 – 2018

Appendix B – RBWM Gambling Act 2005 Statement of Principles 2019 – 2022

11. BACKGROUND DOCUMENTS

Report to Licensing Panel 8 January 2019.

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Airey	Lead Member for Environmental Services (including parking, flooding, housing and performance management)	11/01/2019	
Russell O'Keefe	Acting Managing Director	11/01/2019	
Andy Jeffs	Executive Director Communities Directorate	11/01/2019	14/01/19
David Scott	Head of Communities, Enforcement and Partnerships	11/01/2019	14/01/19
Hilary Hall	Deputy Director Strategy and Commissioning	14/01/19	14/01/19
Kevin McDaniel	Director of Children's Services	14/01/19	14/01/19
Nikki Craig	Head of HR and Corporate Projects	14/01/19	15/01/19
Rob Stubbs	Deputy Director and Head of Finance	14/01/19	
Angela Morris	Deputy Director Health and Adult Social Care	14/01/19	
Elaine Brown	Head of Law & Governance	14/01/19	

REPORT HISTORY

Decision type: Non-key decision	Urgency item? No	To Follow item? No
Report Author: Greg Nelson, Trading Standards & Licensing Lead 01628 683561		

Appendix A

Changes from the Statement of Principles 2015 – 2018

- Change of layout, headings and subheadings
- A table of contents was added
- A paragraph was added under the heading “Introduction”
- The Royal Borough of Windsor and Maidenhead heading was added
- Borough map and a table with current licences/permits added under the heading “The RBWM”
- Consultees heading was added
- An explanation of the consultation and contact details were added under the heading “Consultees”
- A paragraph and bullet points were added under the heading “Declaration”
- Public Health was added under the heading “Responsible Authorities”
- Data Protection Act 2018 was added under the heading “Exchange of Information”
- A paragraph was added under the heading “Exchange of Information”
- “General Principles” heading was added
- A paragraph and bullet points were added under the heading “Premises Licence”
- A paragraph and bullet points were added under the heading “Applications”
- “Plans of Premises” heading was added
- “Notice of the Application” heading was added
- “Representations” heading was added
- “Local Risk Assessment” heading was added
- “Local Area Profile” heading was added
- “Vulnerable Persons” heading was added
- A paragraph was added under the heading “Applications and Plans”
- A note was added under the heading “Travelling Fairs”
- A note was added under the heading “Unlicensed Family Entertainment Centre gaming machine permits”

Appendix B
RBWM Gambling Act Statement Principles 2019 – 2022

See Attached Document



The Royal Borough of Windsor & Maidenhead

Gambling Act 2005

Statement of Principles 2019 - 2022

“Building a borough for everyone – where residents and businesses grow, with opportunities for all”

Our vision is underpinned by six priorities:

Healthy, skilled and independent residents

Growing economy, affordable housing

Safe and vibrant communities

Attractive and well-connected borough

An excellent customer experience

Well-managed resources delivering value for money

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Frequently used acronyms

RBWM Royal Borough of Windsor & Maidenhead

1. General

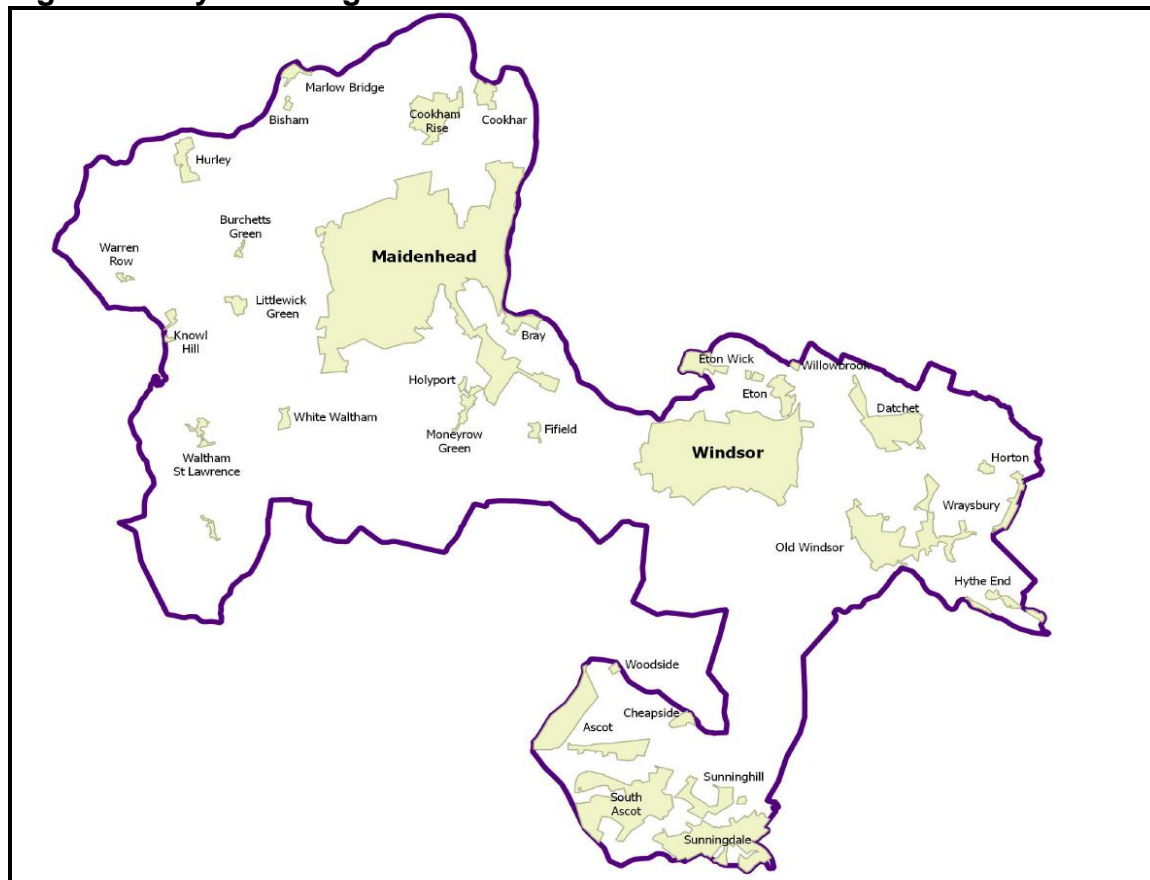
1.1. Introduction

- 1.1.1. Under Section 349 of the Gambling Act licensing authorities are required to publish a statement of the principles which they propose to apply when exercising their functions.
- 1.1.2. The statement must be published at least every three years and this statement will come into effect on 31st January 2019 and continue until 30th January 2022. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published before any revision is given effect.
- 1.1.3. It is important to note that this statement of principles will not override the right of any person to make an application, make representation about an application, or apply for a review of a licence, as each application will be considered on its own merit and according to the statutory requirements of the Gambling Act 2005.

1.2. The Borough of Windsor and Maidenhead

- 1.2.1. The Royal Borough of Windsor and Maidenhead (RBWM) is a Royal of Berkshire, in South East England (Figure 1). It is a unitary authority and home to Windsor Castle, Eton College, LEGOLAND Windsor, Windsor and Ascot Racecourses. Its estimates a population of 150,100 covering 76 square miles.

Figure 1: Royal Borough of Windsor and Maidenhead



1.2.2. The current number of licences issued in the borough is 208. The breakdown is as follows:

Type of Licence/Permit	Total number per category
Adult Gaming Centre Premises Licence	1
Betting Premises Licence (track)	2
Betting Premises Licence (No track)	20
Club Machine Permit	9
Family Entertainment Centre Gaming Machine Permit	3
Licensed Premises Gaming Machine Permit	13
Notification of Gaming Machines	79
Small Society Lotteries	81
Total	208

1.3. The Licensing Objectives

1.3.1. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

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

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

1.3.3. This licensing authority is aware that, as per Section 153, 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:

- 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

1.4. Declaration

1.4.1. In preparing this Statement of Principles the Licensing Authority is required to:

- Adhere to regulations issued by the Secretary of State under Section 349 (4) of The Act
- Have regard to guidance issued to local authorities by the Gambling Commission Section 25 (2) of the Act
- Recognise the need to be consistent with the licensing objectives where applicable.

1.4.2. In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

1.5. Responsible Authorities

1.5.1. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Sector 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The 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

1.5.2. In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

1.5.3. For the purpose of this Act, the following are responsible authorities in relation to premises:

- The Licensing Authority
- The Gambling Commission
- Thames Valley Police
- Royal Berkshire Fire and Rescue Service
- The Planning Authority (RBWM)
- Environmental Protection (RBWM)
- Local Safeguarding Children (LSCB)
- HM Revenue and Customs
- Public Health (As suggested on the Statement of Gambling Licensing Policy – A Councillor's Guide)

1.5.4. You can access the contact details of all the Responsible Authorities at https://www3.rbwm.gov.uk/downloads/file/117/list_of_responsible_authorities

1.6. Interested parties

1.6.1. Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person:

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

- 1.6.2. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- 1.6.2.1. Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.9 to 8.17. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
 - 1.6.2.2. Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 1.6.3. 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 Panel dealing with the licence application. If there are any doubts then please contact the licensing team, Town Hall, St Ives Road, Maidenhead, SL6 1RF or by email: licensing@rbwm.gov.uk.

1.7. Exchange of Information

- 1.7.1. Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under Section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 1.7.2. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 2018 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 1.7.3. Full details of those persons making representations will be made available to applicants, in the event of a public hearing being held and will form part of a public document and it will be published on the RBWM website. Anyone making representations or applying for a review of a premises licence will be informed that their full details will be disclosed.

1.8. General Principles

- 1.8.1. This “Statement of Principles” set out the principles that the licensing authority will apply when making decisions upon applications or notifications made for:
- Premises Licences
 - Temporary Use Notices
 - Occasional Use Notices
 - Permits as required under the Gambling Act 2005
 - Registrations as required under the Gambling Act 2005
- 1.8.2. Nothing in this Statement of Principles will:
- Undermine the rights of any person to apply under the Gambling Act 2005 for a variety of permissions and have the application considered on its individual merits; or
 - Override the right of any person to make a representation on any application or seek a review of a licence or permit where they are permitted to do so under the Gambling Act 2005
- 1.8.3. Each application will be treated on its own merit.

1.9. Enforcement

- 1.9.1. Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 1.9.2. This licensing authority’s principles are that:
It will be guided by the Gambling Commission’s Guidance to Licensing Authorities and will endeavour to be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects.
- 1.9.3. As per the Gambling Commission’s Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 1.9.4. This licensing authority has adopted and implemented a risk-based inspection programme, based on;
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission, in particular at Part 36
 - The principles set out in this statement of licensing policy

- 1.9.5. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.
- 1.9.6. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 1.9.7. This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 1.9.8. Where the Licensing Authority seeks to bring a prosecution, it will have regard to the principle of the Crown Prosecution Service Code for Crown Prosecutors.
- 1.9.9. The Licencing Authority will seek to work actively with the Gambling Commission and the Thames Valley Police in enforcing licensing legislation.

1.10. Licensing Authority Functions

- 1.10.1. Licensing authorities are 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 licensed premises, under the Licensing Act 2003, where there are 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
- 1.10.2. It should be noted that licensing authorities are not be involved in licensing remote gambling, which is regulated by the Gambling Commission via operating licences.

2. Premises Licence

2.1. Premises Licence

2.1.1. A premises licence can authorise the provision of facilities at the following:

- Casino premises
- Bingo premises
- Betting premises including on course track betting
- Adult gaming centres (AGC) premises (for category B3, B4, C and D machines)
- Family entertainment centres (FEC) premises (for category C and D machines)

2.1.2. Premises licences will be subjected to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. The Council can exclude default conditions and also attach others, where it is believed to be appropriate.

2.2. Application

2.2.1. An application for premises can only be made by a person (which includes companies or partnership):

- Who are aged 18 or over **and**
- Who have the right to occupy the premises and
- Who have an operating licence which allows them to carry out the proposed activity **or**
- Who have applied for an operating licence to allow them to carry out the proposed activity. It is important noting that the premises licence cannot be determined until an operation licence has been issued.

2.2.2. The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people betting (and where other persons hold a valid betting operating licence).

2.2.3. Plans of the Premises

2.2.3.1. All new premises licence and variation applications, must include a plan of the premises. The plan will become part of the premises licence and the authority expects the plans to be available for inspection by an authorised Licensing Enforcement officers at the premises.

2.2.3.2. Under the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (amended) the plan of the premises must show:

- The extent of the boundary or perimeter of the premises
- Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such buildings
- Where the premises form a part of the building, the location of any external or internal walls of the building which are included in the premises
- Where the premises are a vessel or a part of a vessel, the location of any

part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises

- The location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads

2.2.3.3. If there are major changes to the layout of a premises a variation must be made and new plans submitted. If there are minor changes to the layout the licence holder should contact the Licensing Authority for advice.

2.2.3.4. It is important to note that a plan has a number of requirements and these requirements depend on the type of licence or permit application. Please visit our website and download our RBWM Guidance Notes relating to arrangements for Premises under the Act to ascertain the plan requirements for the type of application being applied for.

2.2.4. **Notice of the Application**

2.2.4.1. Under The Secretary of States regulations, applicants are required to publish a notice of their application and to notify responsible authorities and other persons about the application. These also apply, with one or two modifications, in relation to applications for provisional statements and some ancillary applications that can be made in relation to a premises licence.

2.2.4.2. Notice must be given in three ways:

- A notice must be placed outside the premises for 28 days consecutively in a place where it can be read conveniently
- In a newspaper of highest circulation within the Royal Borough of Windsor and Maidenhead, on at least one occasion within 10 (ten) working days of the application being served
- To all responsible authorities, which includes the Gambling Commission, within 7(seven) days of the application being served

2.2.4.3. An officer will be visiting the premises to verify the notice, if the notice is not placed or the public notice is not published within the framework days then the Licensing Authority will reject the application.

2.2.5. **Representation**

2.2.5.1. Licensing Authorities are obliged to consider representations from two categories of person, referred to in the Gambling Act 2005 as “responsible authorities” and “interested parties”. Representation from other parties are inadmissible.

2.2.5.2. The licensing authority will consider the relevance of any representation received. It must be related to one or more of the Licensing Objectives or to issues raised under the Licensing Authority’s Statement of Policy, or the Gambling Commission’s Guidance or Code of Practice.

2.2.5.3. Also, the licensing authority will need to consider if representations are “frivolous” or “vexatious”.

2.2.5.4. Anyone that wishes to make a representation to an application must do so in writing to The Royal Borough of Windsor and Maidenhead, Licensing Team, Town Hall, St Ives Road, Maidenhead, SL6 1RF or by email: licensing@rbwm.gov.uk.

2.2.6. Local Risk Assessment

2.2.6.1. It is a requirement of the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP) for licensees to assess the local risk to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their local risk assessments, they must take into account relevant matters identified in this statement of principles.

2.2.6.2. The LCCP states that licensees must undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take account of significant changes in local circumstances
- When there are significant changes at a licensed premises that may affect their mitigation of local risks

2.3. Local Area Profile

2.3.1. It is not a mandatory requirement for licensing authorities to complete their own assessment of the local environment known as the Local Area Profile. In cases where authorities feel that this is necessary then this will be produced as a separate document to the Statement of Principles and will be circulated to all licensed premises and available on the local authority website.

2.4. Decision-making

2.4.1. This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks fit:

- 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 this Statement of Principles

2.4.2. It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

2.5. Meaning of “Premises”

- 2.5.1. In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the Council will pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 2.5.2. The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.”
- 2.5.3. This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
 - Customers should be able to participate in the activity names on the premises licence.
- 2.5.4. The Guidance also gives a list of factors which the licensing authority is aware of, which 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?

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

2.5.6. This authority will take account of the Gambling Commission's Guidance in Part 7 which details the relevant access provisions for each premises type. These include:

a. Casinos (At present time, there are no casinos operating within the Royal Borough of Windsor and Maidenhead)

- The principal access entrance to the premises must be from a street (as defined at 7.21 of the Guidance)
- 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

b. Adult Gaming Centre

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

c. Betting Shops

- Access must be from a street (as per para 7.21 Guidance to Licensing Authorities) or from another 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 unless that shop is itself a licensed betting premises

d. Tracks

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

e. Bingo Premises

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

f. Family Entertainment Centre

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

- a betting premises, other than a track

2.5.7. Part 7 of the Gambling Commission's Guidance to licensing authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

Premises "ready for gambling"

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

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

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

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

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

2.5.12. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 - 7.65 of the Guidance.

Location

2.5.13. This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making.

2.5.14. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.

2.5.15. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Planning

2.5.16. The Gambling Commission Guidance to Licensing Authorities paragraphs 7.58 – 7.65 states:

2.5.17. In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

2.5.18. This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Gambling Guidance paragraph 7.65:

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.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.

2.6. Duplication with other regulatory regimes

2.6.1. This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

2.6.2. When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

2.7. Licensing objectives

2.7.1. 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 and some comments are made below.

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

- This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will

consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

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

- This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *For Local Authorities with tracks:* There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 18).

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

- This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances, machines, segregation of areas etc.
- This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

2.7.4.1. Vulnerable Persons

2.7.4.2. With regards to the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will be for regulatory purposes” to assume that this group includes:

- people who gamble more than they want to
- people who gamble beyond their means and
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. In relation to this, Licensing Authorities included people with a mental illness and people with a learning difficulty. The Licensing Authority will consider this licensing objective on a case by case basis.

2.7.4.3. The licensing authority will expect that an applicant will show that there are policies and procedures in place to protect vulnerable persons. These may include:

- a training programme for staff to enable them to identify persons who may be vulnerable and where appropriate to take action to protect such vulnerable persons from being harmed or exploited by gambling

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises

2.8. Conditions

- 2.8.1. Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 2.8.2. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
- 2.8.3. This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 2.8.4. This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 2.8.5. These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 2.8.6. This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 2.8.7. It is noted that there are conditions which the licensing authority cannot attach to

premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

2.9. Door Supervisors

2.9.1. The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons or vulnerable people) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

2.9.2. Where it is decided that supervision of entrances/machines is appropriate for particular cases the supervisor will be required to be Security Industry Authority (SIA) licenced unless the statutory requirements for the premises in question require otherwise (as per the Guidance, Part 33).

2.10. Adult Gaming Centres

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

2.10.2. This licensing authority may consider measures to meet the licensing objectives such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

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

2.11. (Licensed) Family Entertainment Centres:

2.11.1. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the

applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

2.11.2. This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets/helpline numbers for organisations such as GamCare
- measures/training for staff on how to deal with suspected truant school children on the premises

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

2.11.4. This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

2.12. Casinos

2.12.1. *No Casinos resolution* - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

2.12.2. *Licence considerations / conditions* – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

2.12.3. *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

2.13. Bingo premises

- 2.13.1. This licensing authority notes that the Gambling Commission's Guidance paragraph 18.5 states:

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

- 2.13.2. This authority also notes the Guidance at paragraph 18.5 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

- 2.13.3. Guidance at paragraph 18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

2.14. Betting premises

- 2.14.1. *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

2.15. Tracks

- 2.15.1. This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 2.15.2. This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities and that arrangements will be put in place to ensure as far as is possible that vulnerable adults do access adult only gaming facilities. It is noted that children and

young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

2.15.3. This licensing authority may consider measures to meet the licensing objectives such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare

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

2.15.5. *Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

2.16. Applications and plans

2.16.1. The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).

2.16.2. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44).

2.16.3. It is important to note that a plan has a number of requirements and these requirements depend on the type of licence or permit application. Please visit our website and download the RBWM Guidance Notes relating to arrangements for Premises under the Act to ascertain the plan requirements for the type of application being applied for.

2.17. Travelling Fairs

2.17.1. This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

- 2.17.2. The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 2.17.3. It is noted that the 27 days statutory maximum for the land being used as a fair applies on a per calendar year basis and not in any 12-month period, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded. (See Guidance to Licensing Authorities, para. 30.1-30.6).

2.18. Provisional Statements

- 2.18.1. Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 2.18.2. S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed
 - expects to be altered or
 - expects to be acquired a right to occupy
- 2.18.3. The process for considering an application for a provisional statement is the same as that for a premises licence application other than for tracks. 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.
- 2.18.4. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 2.18.5. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.
- 2.18.6. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;

- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

2.19. Reviews

- 2.19.1. Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with any relevant Code of Practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of principles.
- 2.19.2. The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 2.19.3. The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 2.19.4. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 2.19.5. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 2.19.6. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 2.19.7. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 2.19.8. In particular, the licensing authority may also initiate a review of a premises licence on

the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

- 2.19.9. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
 - the applicant for review (if any)
 - the Commission
 - any person who made representations
 - the chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs

3. Permits / Temporary & Occasional Use Notice

3.1. Unlicensed Family Entertainment Centre (uFEC) gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 3.1.1. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 3.1.2. The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 24. The Gambling Commission's Guidance to Licensing Authorities also states: "In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. Licensing authorities are also encouraged to also specify in their statement of policy that a plan for the uFEC must be submitted." (See Guidance to Licensing Authorities, para. 24.8)
- 3.1.3. Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.
- 3.1.4. Licensing authorities might wish to consider asking applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - that employees are trained to have a full understanding of the maximum stakes and prizes. (See Guidance to Licensing Authorities, para. 24.9))
- 3.1.5. It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles

- 3.1.6. This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children and vulnerable adults being

on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); a scaled plan of the premises (See Guidance notes relating to arrangements for Premises under the Act – plan requirement for uFECs), original copy of Public Liability Insurance documentation and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

3.2.1. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

3.2.2. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

3.3. Permit: 3 or more machines

3.3.1. If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

3.3.2. This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include Staff training and supervision of the machines. Notices and signage may also be helpful.

3.3.3. As regards the protection of vulnerable adults, applicants may wish to consider providing the telephone number of GamCare on the machines.

3.3.4. 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.

- 3.3.5. It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 3.3.6. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3.4. Prize Gaming Permits

- 3.4.1. The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 3.4.2. This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - that the gaming offered is within the law
 - Clear policies that outline the steps to be taken to protect children from harm.
- 3.4.3. In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 3.4.4. 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.

3.5. Club Gaming and Club Machines Permits

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

B, C or D).

- 3.5.2. Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 3.5.3. The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 3.5.4. There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) the club is established primarily for gaming, other than gaming prescribed by regulation under s.266 of the Act;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 3.5.5. There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

3.6. Temporary Use Notices

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

- 3.6.2. The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 3.6.3. The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 3.6.4. There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 3.6.5. In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 3.6.6. This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

3.7. Occasional Use Notices

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

4. Further Information

ANNEX A - TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Matter to be dealt with	Full Council	Sub-Committee	Licensing Officers
Three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee setting – when appropriate		If delegated by Full Council	
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		All cases	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of a club gaming/club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Consideration of an Occasional Use Notice			All cases
Prosecution of offences under Gambling Act 2005			Community Protection & Enforcement Services Lead in conjunction with the Head of Legal Services
The appointment of Authorised Persons in accordance with Section 304 Gambling Act 2005			Community Protection & Enforcement Services Lead
Applications for Licensed Premises Gaming Machine Permits		Over 4 machines	Up to 4 machines

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