



# **The Royal Borough of Windsor & Maidenhead**

## **Gambling Act 2005**

### **Statement of Principles**

**2022 – 2025**

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# 1 General

## 1.1 Introduction

1.1.1. The Royal Borough of Windsor & Maidenhead (RBWM) is a licensing authority for the purposes of s2 of the Gambling Act 2005.

1.1.2. Under s349 of the Act licensing authorities are required to publish a statement of the principles which they propose to apply when exercising their functions.

1.1.3. The statement must be published at least every three years and this statement will come into effect on 31 January 2022 and continue until 30 January 2025. The statement may 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.

## 1.2. The Borough of Windsor and Maidenhead

1.2.1. The Royal Borough of Windsor and Maidenhead is a unitary authority to the west of London covering 76 square miles. It is home to Windsor Castle, Eton College, LEGOLAND Windsor and Windsor and Ascot Racecourses. Its population is approximately 151 500.

1.2.2. The current number of licences issued in the Borough to types of gambling premises is 75. 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)	14
Club Machine Permit	8
Family Entertainment Centre Gaming Machine Permit	4
Licensed Premises Gaming Machine Permit	10
Notification of Gaming Machines	36
Total	75

## 1.3 General Principles

1.3.1. This “Statement of Principles” set out the principles that the licensing authority will apply when making decisions upon applications or notifications made under the Gambling Act 2005.

1.3.2. In exercising its functions under the Act this authority shall aim to permit the use of premises for gambling in so far as the authority think it;

- in accordance with any relevant code of practice issued under s24 of the Act,
- in accordance with any relevant guidance issued by the Gambling Commission under s25,
- reasonably consistent with the licensing objectives, and
- in accordance with this statement of principles

1.3.3. In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

1.3.4. It should be noted 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".

1.3.5. 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

1.3.6. Each application will be treated on its own merit.

#### **1.4. Declaration**

1.4.1. In preparing this Statement of Principles this licensing authority has:

- had regard to the licensing objectives of the Gambling Act 2005,
- adhered to regulations issued by the Secretary of State under s349(4) of the Act,
- had regard to guidance issued to local authorities by the Gambling Commission s25(2) of the Act,
- had regard to the responses from those consulted on this statement of principles, and
- recognised the need to be consistent with the licensing objectives where applicable

1.4.2 The licensing authority will continue to work with legislation concerning immediate issues such as the coronavirus pandemic as it effects gambling premises.

#### **1.5 Equalities**

1.5.1 The licensing authority recognises its duty to promote equality under the terms of the Race Relations Act 1976 (Amendment) Regulations 2003 and the Equality Act 2010.

#### **1.6 Consultation**

1.6.1 Licensing authorities are required by regulations made under the Gambling Act 2005 to list the persons whom the authority has consulted in preparing their statement of principles. The following were consulted in preparing the RBWM Gambling Act 2005 Statement of Principles 2022 – 2025;

- Thames Valley Police
- RBWM Child Safeguarding Executive Steering Group
- RBWM Adult Safeguarding Executive Steering Group

- RBWM Environmental Protection
- RBWM Planning
- Public Health
- The Gambling Commission
- HMRC
- Royal Berkshire Fire & Rescue
- Gamcare
- The Trade
- RBWM Members
- Town Centre Management
- Residents
- Local Businesses

## **1.7 The Licensing Objectives**

1.7.1. In exercising their functions under the Gambling Act 2005 licensing authorities must have regard to the licensing objectives as set out in s1 of the Act.

1.7.2. 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**

1.7.3. 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”.

1.7.4. More detail on the licensing authority’s approach to the licensing objectives is set out in section 2.13, below.

## **1.8. Responsible Authorities**

1.8.1. 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 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

1.8.2. In accordance with the guidance in the Gambling Commission’s Guidance to Licensing Authorities this authority designates the RBWM Child Safeguarding Executive Steering Group, the statutory overseer of children's safeguarding arrangements for RBWM, as competent to advise the authority about the protection of children from harm in relation to gambling and the Gambling Act 2005.

1.8.3. Under s157 of the 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)
- RBWM Child Safeguarding Executive Steering Group
- HM Revenue and Customs
- Public Health

## **1.9 Interested parties**

1.9.1. 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)”

1.9.2. The licensing authority is required by regulations made under the Gambling Act 2005 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;

1.9.2.1. This authority will apply the considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at paragraphs 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.

1.9.2.2. 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.

1.9.3. 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](mailto:licensing@rbwm.gov.uk)

## **1.10 Exchange of Information**

1.10.1. Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under s29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under s350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

1.10.2. 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 and ensure that GDPR and data protection provisions 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.

1.10.3. 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 that 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.

## **1.11 Enforcement**

1.11.1. 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.

1.11.2. The Gambling Commission is the enforcement body for 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.

1.11.3. Licensing authorities are required by regulations made 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 s346 of the Act to institute criminal proceedings in respect of the offences specified.

1.11.4. This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and the Regulators Code 2014 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 any side effects.

1.11.5 The licensing authority will seek to work actively with the Gambling Commission and the Thames Valley Police in enforcing licensing legislation.

1.11.6. Where the licensing authority seeks to bring a prosecution, it will have regard to the RBWM Enforcement & Prosecution Policy which can be found at <https://www.rbwm.gov.uk/home/council-and-democracy/strategies-and-policies/enforcement-and-prosecution-policy>

## **1.12 Licensing Authority Functions**

1.12.1. 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

1.12.2. It should be noted that licensing authorities are not involved in licensing remote (ie on-line) gambling. This is regulated by the Gambling Commission via operating licences.

## **2. Premises Licences**

### **2.1. The 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 Meaning of “Premises”**

2.2.1. In the Act, "premises" is defined as including "any place". s152 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.

2.2.2. The Gambling Commission states in paragraphs 7.6 and 7.7 of its Guidance to Licensing Authorities;

“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. 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.”

2.2.3. 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.

2.2.4. 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?

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

2.2.6. 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. Adult Gaming Centre
  - No customer must be able to access the premises directly from any other licensed gambling premises
- b. 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
- c. Tracks
- No customer should be able to access the premises directly from:
    - a casino
    - an adult gaming centre
- d. 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
- e. Family Entertainment Centre
- No customer must be able to access the premises directly from:
    - an adult gaming centre
    - a betting premises, other than a track

2.2.7 Casinos have been omitted from this list of premises types. This is because there are no casinos operating within the Royal Borough of Windsor and Maidenhead and new casinos are restricted under the Gambling Act 2005 to specified areas, which does not include this authority area.

2.2.8. 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

## **2.3 Application**

2.3.1. An application for premises licence 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.

2.3.2. 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).

## **2.4 Plans of the Premises**

2.4.1. 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 officers at the premises.

2.4.2. Under the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (as 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

2.4.3. 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.

2.4.4. It is important to note that there are a number of requirements for plans and these requirements depend on the type of licence or permit being applied for. Guidance on this is available at the Gambling Act 2005 section of the RBWM website.

## **2.5 Notice of the Application**

2.5.1. Under regulations made by the Secretary of State 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.

2.5.2. 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
- a notice must be placed in a newspaper of highest circulation within the Royal Borough of Windsor and Maidenhead on at least one occasion within 10 working days of the application being served
- notice must be given to all responsible authorities, which includes the Gambling Commission, within 7 days of the application being served

2.5.3. An officer will visit 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.

## **2.6 Representation**

2.6.1. 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.

2.6.2. 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 Principles or the Gambling Commission’s Guidance or Code of Practice.

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

2.6.4. 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](mailto:licensing@rbwm.gov.uk).

## **2.7. Local Risk Assessment**

2.7.1. It is a requirement of the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP) that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks.

2.7.2. In undertaking their risk assessments, they must take into account relevant matters identified in this statement of principles, in particular those set out in the Local Area Profile, below.

2.7.3. 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

2.7.4. This risk assessment must be shared with RBWM’s Licensing team when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of RBWM’s Licensing team.

## **2.8 Local Area Profile**

2.8.1. Licensees and licence applicants need to be aware of some local factors when completing their risk assessments as set out in section 2.7, above. This is because

of the effects of gambling in areas of deprivation or where there is a sizeable population of Black, Asian and other ethnic minority individuals.

2.8.2. Harm caused by gambling is disproportionately higher in areas of deprivation. RBWM is generally a prosperous area but there are pockets of relative deprivation, parts of Dedworth fall within the third most deprived decile in England and parts of Maidenhead fall within the fourth most deprived decile.

2.8.3. Harm caused by gambling is disproportionately higher amongst Black, Asian and other ethnic minority individuals. RBWM's population is predominantly white but Black, Asian, mixed and other ethnic minority groups make up approximately 14% of the Borough's population overall, and approximately 17% in Maidenhead.

2.8.4. These factors will be a consideration for local gambling regulation in RBWM in the context of s153 of the Act and so the licensing authority will expect to see them reflected in licensee and licence application risk assessments.

## **2.9 Premises “ready for gambling”**

2.9.1. The Gambling Commission's Guidance to Licensing Authorities 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.

2.9.2. 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.

2.9.3. 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.

2.9.4. 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.

2.9.5. 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.

## **2.10 Location**

2.10.1. 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.

2.10.2. 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.

2.10.3. 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.

## **2.11 Planning**

2.11.1. In the Gambling Commission Guidance to Licensing Authorities it states in paragraph 7.58;

“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.”

2.11.2. 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.”

## **2.12 Duplication with other regulatory regimes**

2.12.1. 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.



2.12.2. 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.

### **2.13 Licensing objectives**

2.13.1. Premises licences granted must be 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.

#### **2.13.2. 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

#### **2.13.3. 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, section 2.21, below.

#### **2.13.4. 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.

2.13.5. This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

### **2.13.6 Vulnerable Persons**

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
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs, and
- people with a mental illness or with a learning difficulty.

2.13.7. This licensing authority will consider this licensing objective on a case by case basis but recognises that there is evidence which clearly highlights the issue of mental health and the link with problem gambling.

2.13.8. The licensing authority will also consider as vulnerable any person who is being coerced or exploited to gamble by others.

2.13.9. The licensing authority will expect that licensees and applicants will have policies and procedures in place to protect vulnerable persons. These should include;

- regular training for staff, using a programme that is regularly reviewed and updated to take into account the latest data and information, 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 or from being coerced or exploited to gamble by others.
- making information readily available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. The information should cover:
  - any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
  - timers or other forms of reminders or ‘reality checks’ where available
  - self-exclusion options
  - information about the availability of further help or advice.
- directing this information to all customers whether or not licensees also make available material which is directed specifically at customers who may be ‘problem gamblers’.
- making this information available in all areas where gambling facilities are provided and adjacent to ATMs. Information must be displayed prominently using methods appropriate to the size and layout of the premises. These methods may include the use of posters, the provision of information on gambling products, or the use of screens or other facilities in the gambling premises.

- information must also be available in a form that may be taken away and may also be made available through the use of links to be accessed online or using smart technology. Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly

2.13.10. Authorised officers from the licensing authority may seek evidence as to the effectiveness of policies and procedures put in place to protect vulnerable persons

## **2.14 Conditions**

2.14.1. 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.

2.14.2. 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.

2.14.3. 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

2.14.4. 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.

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

2.14.6. 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.

2.14.7. 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.

## **2.15 Door Supervisors**

2.15.1. 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.

2.15.2. The Gambling Commission advises in Part 33 of its Guidance to Licensing Authorities that 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.

## **2.16 Adult Gaming Centres**

2.16.1. 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.

2.16.2. This licensing authority may consider measures to meet the licensing objectives such as (this list is not mandatory nor exhaustive, it is merely indicative of example measures);

- 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.

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

2.17.1. 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.

2.17.2. 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

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

2.17.4. 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

## **2.18 Betting machines**

2.18.1. 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

## **2.19 Bingo premises**

2.19.1. 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."

2.19.2. 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.

2.19.3. This licensing authority notes that the Gambling Commission's Guidance paragraph 18.7 states;

"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."

## **2.20 Betting premises**

2.20.1. 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.

## **2.21 Tracks**

2.21.1. 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.

2.21.2. 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.

2.21.3. 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

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

## **2.22 Gaming machines**

2.22.1. 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.

## **2.23 Applications and Plans**

2.23.1. 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, paragraph 20.43).

2.23.2. 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).

2.23.3. 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. Guidance is available in the Gambling Act 2005 section of the RBWM website.

## **2.24 Travelling Fairs**

2.24.1. 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.

2.24.2. The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

2.24.3. 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, paragraphs 30.1- 30.6).

## **2.25 Provisional Statements**

2.25.1. 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.

2.25.2. 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

2.25.3. 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.

2.25.4. 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.

2.25.5. 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.

2.25.6. 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

## **2.26 Reviews**

2.26.1. 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 this Statement of Principles.

2.26.2. 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.

2.26.3. 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.

2.26.4. 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.

2.26.5. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

2.26.6. 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:-

- add, remove or amend a licence condition imposed by the licensing authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months; and
- revoke the premises licence.

2.26.7. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.

2.26.8. 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.

2.26.9. 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 Gambling 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**

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 (s238 of the Act).

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 uFEC 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 codes of practice issued by the Commission under s24 of the Act. 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, paragraph 24.8)

3.1.3. The Guidance states in paragraph 24.9;

“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. The Guidance also states in paragraph 24.9;

“The licensing authority may also 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.”

3.1.5. It should be noted that a licensing authority cannot attach conditions to this type of permit.

## **3.2 Statement of Principles**

3.2.1. 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.

3.2.2. With respect to children, harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

3.2.3. With respect to vulnerable adults, this licensing authority will expect policies and procedures to include appropriate measures/training for staff as regards to how 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 or from being coerced or exploited to gamble by others.

3.2.4. 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.

### **3.3 (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))**

#### **Automatic entitlement: 2 machines**

3.3.1. 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.

3.3.2. 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.

#### **3.4 Permit: 3 or More Machines**

3.4.1. 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.”

3.4.2. 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.

3.4.3. As regards the protection of vulnerable adults this licensing authority will expect policies and procedures to include appropriate measures/training for staff as

regards to how to identify persons using the machines who may be vulnerable, and where appropriate, to take action to protect such vulnerable persons from being harmed or exploited by gambling.

3.4.4. Information should be readily available to customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. Licensees and applicants may wish to consider providing the contact details of GamCare on the machines.

3.4.5. 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.

3.4.6. 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.

3.4.7. 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.

### **3.5 Prize Gaming Permits**

3.5.1. 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”.

3.5.2. 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.

3.5.3. 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)).

3.5.4. 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.

### **3.6 Club Gaming and Club Machines Permits**

3.6.1. 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).

3.6.2. Paragraph 25.4 of the Gambling Commission Guidance states;

" The Act states that members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence."

3.6.3. The Commission Guidance also notes in paragraph 25.38 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.

3.6.4. 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."

3.6.5. 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.

### **3.7 Temporary Use Notices**

3.7.1. 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 to the Gambling Commission, would include hotels, conference centres and sporting venues.

3.7.2. 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.

3.7.3. 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.

3.7.4. 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".

3.7.5. 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.

3.7.6. 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.

### **3.8 Occasional Use Notices**

3.8.1. 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.



## **4. Further Information**

### **ANNEX A - TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

Matter to be Dealt With	Full Council	LPSPO Sub-Committee	Licensing Officers
Three yearly review and adoption of Statement of Principles	All cases		
Policy not to permit casinos	All cases (if new casinos were permitted in RBWM, which, by regulation, is not currently the case)		
Fee setting – when appropriate		If delegated by Full Council	
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Application for a variation of a premises licence		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Review of a premises licence		All cases	
Application for a club gaming / club machine permit		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn

Cancellation of a club gaming / club machine permit		All cases	
Applications for licenced premises gaming machine permits		Over 2 machines	Up to 2 machines
Applications for other permits			All cases
Cancellation of licenced premises gaming machine permit			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 the Gambling Act 2005			Trading Standards & Licensing Manager in conjunction with Head of Law
The appointment of authorised persons in accordance with s305 of the Gambling Act 2005			Head of Housing, Environmental Health and Trading Standards