

**BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL**

<b>From: Head of Environment</b>	<b>Report Number: M47</b>
<b>To: Licensing and Appeals Committee</b>	<b>Date of meeting: 5 July 2012</b>

**GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES THREE YEARLY REVISION**

**1. Purpose of Report**

- 1.1 This report refers to policy setting under the Gambling Act 2005. From January 2007, the Gambling Act 2005 gave new functions and responsibilities, for the issuing of licences and permits for gambling/gaming premises and associated matters, to local Licensing Authorities.
- 1.2 Section 349 of the 2005 Act requires the Licensing Authority to prepare and publish a statement of the higher level principles it will apply when dispensing its various gambling functions. The 'Statement of Licensing Principles' must by law be reviewed and re-published every three years and sooner if so required. In 2012 the Authority is due to revisit the statement that has been in effect since January 2010, and this report seeks the approval of a suitably revised version in order that a statutory consultation period may then commence on its content.

**2. Recommendations**

- 2.1 That the draft Gambling Act 2005 'Statement of Licensing Principles' document, attached as Appendix A be approved. Further that the relevant officers proceed with the commencement of a period of statutory consultation in accordance with Gambling Act 2005 legislation and regulations.

The Committee is able to resolve this matter.

**3. Financial Implications**

- 3.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory work within existing resources and by working together with partner authorities. The resource, co-ordination of activity and costs associated with the consultation process will be shared between the two districts and wider wherever viable.
- 3.2 Mid Suffolk and Babergh Councils have the same application fee structure in place – being the maxima permissible under the Gambling Act 2005 fee regulations.

#### 4. Risk Management

4.1 Key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation Measures</b>
Failure to review, revise and re-consult upon the policy will result in legal challenge to all Council decisions (including potentially by judicial review).	Very high	Critical	Review, revise and re-consult on the statement of principles in accordance with the requirements of the Act, regulations and statutory guidance.

#### 5. Consultations

5.1 This will be the third edition of the Council's 'Statement of Licensing Principles' under the Gambling Act 2005. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation takes place. The consultation will take place over a minimum period of 10 weeks, through various channels/media. A joint notice will also be placed in the local press as part of this engagement process.

#### 6. Equality Analysis

6.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy and with only minor amendments proposed. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and shall have due regard to any comments received during the policy consultation on equality issues.

#### 7. Shared Service / Partnership Implications

7.1 The 'Statement of Licensing Principles' document has been developed to be broadly consistent across both Babergh and Mid Suffolk Councils (subject to member approval at each authority). This has also involved work as part of the wider Suffolk Licensing Officers Group.

7.2 The development resource and costs - including consultation advertising - shall be shared across both Councils to create efficiencies, align processes and develop good practice.

7.3 Adoption of the Gambling Act 2005 Statement of Licensing Principles is a function reserved for full Council at both Authorities.

## 8. Key Information

- 8.1 The Licensing Committee established under section 6 of the Licensing Act 2003 is also responsible for dealing with applications under the Gambling Act 2005. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for Full Council and include any resolution by the Licensing Authority not to issue casino premises licences and final approval of the three year 'Statement of Licensing Principles' document.
- 8.2 The 'Statement of Licensing Principles' must contain certain information as required by regulation. The statement must also have regard to guidance issued under section 25 of the Act by the Gambling Commission (a regulatory body independent of Central Government), and take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 8.3 The redrafted statement, attached as Appendix A to this report, contains minimal amendments from the 2010 published version. The Gambling Commission is currently consulting on its revised national guidance document, details of which are attached as Appendix B. However, this work will not have been completed in the timeframe required by Licensing Authorities in their statutory policy revision cycle. Accordingly the Gambling Commission has confirmed that Licensing Authorities are to proceed *without* this guidance and furthermore stated that revisions to the national guidance will be unlikely to have any practical implications for local policy. The Regional Compliance Inspector of the Gambling Commission is a member of the Suffolk Licensing Officer's Group and has re-iterated this advice. Generally a licensing authority must have regard to both documents, as well as the licensing objectives and any codes of practice issued by the Gambling, when undertaking its gambling licensing functions.
- 8.4 The Licensing Team has worked closely in partnership with other Suffolk Licensing Authorities to ensure consistency of approach and avoid duplication of efforts across the County. Albeit there will be some minor local variations based on specific local circumstances, licensable activity and individual consultation responses, the common template should ensure that there is little variance between neighbouring authorities in the dispensation of functions under the Act. All available legislative and regulatory information and guidance has been taken into account during this preparatory work. The main content of the document attached as Appendix A has also been previously reviewed and approved by a Legal Officer of St.Edmundsbury Borough Council as part of this partnership working.
- 8.5 The legislation requires the Licensing Authority to consult widely upon its draft Statement of Licensing Principles document with stakeholders, before finalising and publishing the document in January 2013 (as set by order of the Secretary of State). The third statement shall take effect for a three-year period from 31 January 2013 through to 31 January 2016 (although the statement may be revised sooner if necessary).

- 8.6 Once the consultation period has been completed, any responses will be collated and the 'Statement of Licensing Principles' may be revised in the light of representations/comments made. Any revised document will then be brought back before the Licensing and Appeals Committee for further consideration prior to the document being recommended on to full Council for adoption (which may need to be via Strategy Committee).
- 8.7 Once the document has been adopted it will be published on the Council website and made widely available, to take effect from January 2013. It will then become a primary point of reference for Committee Members, officers, applicants and other responsible/interested parties.

**9. Appendices**

Title	Location
A: Statement of Licensing Principles (2013-16) Draft	Attached
B: Gambling Commission Guidance consultation information (April 2012)	Attached

**10. Background Documents**

10.1 None

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# GAMBLING ACT 2005: STATEMENT OF PRINCIPLES

**COUNCIL ADOPTED FINAL VERSION**  
**DRAFT REVISION 2013-2016**

Approved by Babergh District Council on ~~20 October 2009~~ [DATE]

Effective: 31 January ~~2010~~2013 until 31 January ~~2013~~2016  
(as may be revised)

## Preface:

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This ‘**Gambling Act 2005: Statement of Principles**’ document has been drafted in partnership by the seven district and borough Licensing Authorities across Suffolk with an aim of creating a broadly consistent Countywide document for the benefit of all stakeholders and others with an interest in the Gambling Act 2005 functions.

Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. This document is the second such statement for this Licensing Authority and must, by order of the Secretary of State, be published to take effect from 31 January ~~2010~~ 2013.

This document has been developed with due regard to all available regulations, conditions, codes of practice, statutory guidance, practical experience of the legislation and any consultee responses. Should anything in future publications, legislative/regulatory changes or case law impact upon the content of this ‘Statement of Principles’ document, then it will be taken into account and the document may be updated at a later stage and with due consideration to the resource implications for the Licensing Authority.

All references made within this document to the Gambling Commission Guidance for Licensing Authorities, and any extracts quoted thereof, refer to the third edition Guidance document published in May 2009.

For further information please refer to:

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

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Babergh District Council’s website has an on-line public register, accessible 24 hours a day 7 days a week, for all Gambling Act 2005 matters for which it has responsibility. The Gambling Commission website gives details of both licensed and pending Gambling Operators.

# GAMBLING ACT 2005: STATEMENT OF PRINCIPLES (SECOND EDITION)

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# PART A: GENERAL MATTERS

## 1. The Licensing Objectives

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- 1.1 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 ('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.**

The Gambling Commission has stated that, with limited exceptions, the intention of the Gambling Act 2005 is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities, except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

- 1.2 In accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices the Licensing Authority should **aim to permit** the use of the premises for gambling purposes 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 principles.

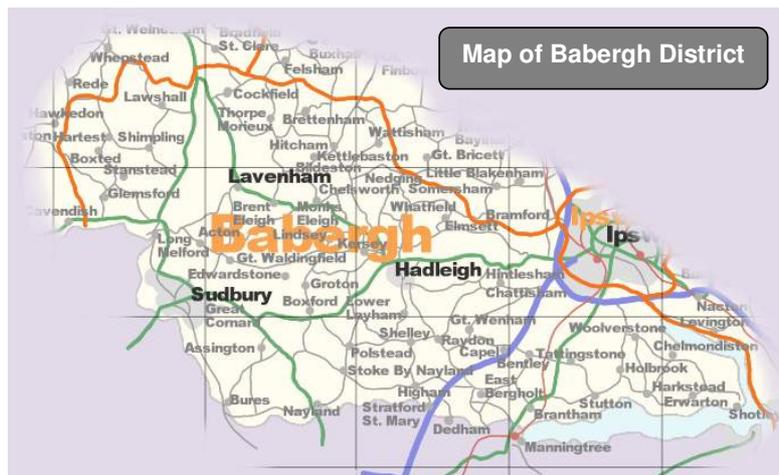
## 2. Introduction

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- 2.1 Babergh District Council is situated in the County of Suffolk, which at the time this document was published, contains seven District / Borough Councils in total.

Whilst the Babergh District remains very rural, it is within close and convenient distance of London and the Continent. The District has a population of approximately 87,000. It covers an area of 230 square miles and contains several small towns and villages which still retain much of their original outstanding character and appearance, including the nationally recognised villages of Lavenham and Long Melford.

The largest town in Babergh is Sudbury which combined with its neighbouring village of Great Cornard has a population of approximately 20,500. The other market town of Hadleigh has a population of approximately 8,500. Ipswich (10 miles from Hadleigh) is now spilling over into the District, and has a population in excess of 130,000 people. These areas are shown in the map below:



Ease of communications, the many seaside resorts along the east coast and picturesque towns, villages and countryside make South Suffolk a very popular place to live, work and to visit.

The main gambling activities noted in the district since implementation of the Gambling Act 2005 are licensed off-course betting, gaming in alcohol licensed premises and members clubs (in the form of gaming machines, exempt and prescribed gaming), non-commercial gaming, occasional use notices for point-to-point track betting and small society lottery registrations.

2.2 Licensing Authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from time to time and any amended parts must be re-consulted upon. Following any amendment and consultation, the revised statement will then be re-published.

2.3 Babergh District Council consulted widely upon this statement of principles before it was finalised and published. The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:

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

A list of the persons consulted by the Licensing Authority is attached to this document as Schedule A.

The consultation took place between ~~20 July 2009~~[DATE] and ~~28 September 2009~~.[DATE].

The full list of any comments made and the consideration by the Licensing Authority of those comments is available upon request by contacting:

**Babergh District Council**  
**Licensing Team, Corks Lane, Hadleigh, IPSWICH, Suffolk IP7 6SJ**  
(☎ Tel: 01473 822801) ✉ e-mail: [licensingsection@babergh.gov.uk](mailto:licensingsection@babergh.gov.uk)  
website: [www.babergh.gov.uk](http://www.babergh.gov.uk)

2.4 The statement of principles was approved at a meeting of the full Council of Babergh District Council on ~~20 October 2009~~[DATE] and was published on the Council website by ~~04~~[DATE] January 201~~30~~. Copies were placed in the public libraries within the District as well as being available at the Babergh District Council Offices. Should you have any comments concerning this document then please send them via e-mail or letter to the Licensing Team as above.

2.5 It should be noted that this statement of principles document shall not override the rights of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### 3. Declaration

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3.1 In producing this statement of principles the Licensing Authority declares that it has had due regard to the licensing objectives of the Gambling Act 2005 (see 1.1 of this document), the Guidance issued by the Gambling Commission, and any responses from those consulted on the statement of principles.

### 4. Responsible Authorities

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4.1 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 Licensing Authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.2 In accordance with the Gambling Commission Guidance for Licensing Authorities this Authority intends to designate the **Suffolk Safeguarding Children Board** for this purpose. However, the Suffolk Safeguarding Children Board has an arrangement with the Suffolk Constabulary for the Constabulary to act as their nominated agent in relation to Gambling Act 2005, when considering applications in the context of protecting children from harm.

- 4.3 The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Babergh District Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) or available upon request to the Licensing Team.

## 5. Interested parties

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- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Gambling Act defines interested parties as persons who:
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) have business interests that might be affected by the authorised activities, or
  - c) represent persons who satisfy paragraph (a) or (b).
- 5.2 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. These principles are:
- o Each case will be decided upon its merits.
  - o The Licensing Authority will not apply a rigid rule to its decision making. It may have regard to a number of factors, for example:
    - (i) The size of the premises;
    - (ii) The nature of activities the applicant proposes to provide at the premises; and
    - (iii) Guidance from the Gambling Commission that 'business interests' should be given the widest possible interpretation (paragraph 6.25 of the guidance refers).
- 5.3 Interested parties can include persons who are democratically elected such as county, parish and town councillors and MPs. Other than these persons, the Licensing Authority will normally require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities.
- 5.4 If individuals approach Councillors to ask them to represent their views then care should be taken to ensure that the Councillors are not subsequently appointed as part of a Licensing Sub-Committee who may be involved with determination of the licence application. If any further guidance is required, generally or in individual cases, then please contact the Licensing Team at Babergh District Council.

## 6. Exchange of Information

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- 6.1 This Licensing Authority will, when exchanging information it holds relating to gambling premises, permits, registrations and temporary permissions, apply the following principles:
- (a) act in accordance with the provisions of the Gambling Act 2005;
  - (b) comply with the Data Protection Act 1998;
  - (c) comply with any relevant requirements of the Freedom of Information Act 2000;

- (d) have regard to Part 13 of the Guidance issued by the Gambling Commission on this matter and the Gambling Commission's publication '*Advice to Licensing Authorities on information exchange with the Gambling Commission*' (as may be periodically updated); and
- (e) any relevant regulations issued by the Secretary of State under the powers provided by the Gambling Act 2005.

6.2 Should any protocols be established pursuant to section 350 of the Act concerning information exchange with the other bodies as listed in Schedule 6(1) of the Act then these will be made available by the Licensing Authority.

## 7. Enforcement

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- 7.1 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.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission Guidance (in particular Part 36), the Regulators' Compliance Code [and its own Corporate Enforcement Policy. The Authority](#)—~~and~~ shall endeavour to regulate in the public interest and be:
- **Proportionate:** regulators should only intervene when necessary and 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 regulation simple and user friendly; and
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 7.3 In accordance with the Gambling Commission Guidance, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 Any inspection programme, which may be adopted by the Licensing Authority, shall be risk-based.
- 7.5 The enforcement and compliance role for the Licensing Authority under the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for Operator and Personal Licences. Manufacture, supply or repair of gaming machines is dealt with by the Gambling Commission and not the Licensing Authority.
- 7.6 This Licensing Authority will also endeavour to work in partnership with and support local businesses, having due regard to the stated principles and any best practice guidelines published by the Better Regulation Executive, in respect of its responsibilities under the Gambling Act 2005 and other regulatory functions of the Local Authority.

- 7.7 With due regard to the principle of transparency, any enforcement/compliance protocols or written agreements developed by the Licensing Authority shall be made available upon request to the Licensing Team.
- 7.8 In considering applications, and taking enforcement action, under the Gambling Act 2005 the Licensing Authority shall duly consider any Human Rights Act 1998 implications (in particular Article 1, Protocol 1 and Articles 6, 8 and 10).

## 8. Licensing Authority functions

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- 8.1 The Act gives Licensing Authorities a number of important regulatory functions in relation to gambling, the main functions of which are to:
- Licence premises for gambling activities;
  - Consider notices given for the temporary use of premises for gambling;
  - Grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
  - Regulate gaming and gaming machines in alcohol-licensed premises;
  - Grant permits to Family Entertainment Centres (FEC's) for the use of certain lower stake gaming machines;
  - Grant permits for prize gaming;
  - Consider occasional use notices for betting at tracks;
  - Register small societies' lotteries;
  - Consider applications for provisional statements;
  - Provide information to the Gambling Commission regarding details of licences, permits, notices and registrations issued (see section 6 above on 'Exchange of Information');
  - Maintain registers of the permits, notices and licences that are issued under these functions; and
  - Prepare and publish, every three years (or sooner if required), a statement of the principles it proposes to apply when exercising its functions under the Gambling Act 2005.

Additions or amendments to the list above notified by the Gambling Commission will be published on the Council website.

- 8.2 The Babergh District Council summary of delegations adopted under the Gambling Act 2005 is available separately via the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) or upon request direct to the Licensing Team.
- 8.3 It should be noted that local Licensing Authorities are not responsible for licensing remote gambling. This is the responsibility of the Gambling Commission.

## 9. Appeals

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- 9.1 Appeals relating to premises licensing and other decisions by Licensing Authorities are covered within the relevant legislation and regulations and are referred to in Part 12 of the Gambling Commission guidance.

# PART B: PREMISES LICENSING

## 1. General Principles

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations. The Act provides that licences may be subject to conditions in a number of ways:
- (a) automatically, having been set out on the face of the Act ;
  - (b) through regulations made by the Secretary of State;
  - (c) by the Gambling Commission, to operating and personal licences;
  - (d) by the Licensing Authority, to premises licences and some permits; and
  - (e) by the Licensing Authority, by excluding certain default conditions on a premises licence.
- 1.2 When determining an application, this Licensing Authority **aims to permit** the use of premises for gambling in so far as it thinks it is:
- o in accordance with any relevant code of practice issued by the Gambling Commission;
  - o in accordance with any relevant guidance issued by the Gambling Commission;
  - o reasonably consistent with the licensing objectives; and
  - o in accordance with the Authority's statement of principles.
- 1.3 **Definition of 'Premises':**  
| 'Premises' is defined by the Act as 'any place'. A particular premises can not be granted more than one premises licence under the Gambling Act at any one time. It is possible for a single building to 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 separate premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.
- 1.4 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should take particular care when considering applications for more than one premises licence for a single building, and applications for a premises licence where part of the premises is used for non-gambling purposes. In particular the Licensing Authority will consider whether:
- o entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people can not 'drift' into a gambling area;
  - o premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and

- customers are able to participate in the principal gambling activity authorised by the premises licence.

1.5 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises - whether licensed or unlicensed. The Licensing Authority will consider whether:

- entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people can not 'drift' into a gambling area;
- 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;
- customers are able to participate in the principal gambling activity authorised by the premises licence;
- children can gain access to the premises;
- the two establishments are compatible;
- the proposed licence holder would be able to comply with the requirements of the Act, for example mandatory operating licence conditions; and
- Gambling Commission Guidance in relation to division, separation or splitting of premises and primary gambling activity (Part 7 of statutory guidance).

In addition an overriding consideration for the Licensing Authority is whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

1.6 Where an application is made in respect of a premises to be constructed or altered the Licensing Authority will consider each application on its own merits having due regard to the advice given by the Gambling Commission in its Guidance (particularly sections 7.59 to 7.66). The Licensing Authority will consider whether:

- (a) a future effective date on the licence is appropriate; or
- (b) the licence should be issued subject to a condition that trading shall not commence until the premises have been completed in all respects and in accordance with the scale plans provided with the application.

The Licensing Authority may require inspection of the completed works or written confirmation from the applicant, their agent or surveyor to satisfy the Authority that the completed works comply with the original, or changed, plan attached to the premises licence.

1.7 **Location:** Demand or need for licensed premises cannot be considered with regard to the location of premises. In accordance with the Gambling Commission Guidance, the Licensing Authority will pay particular attention to 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 concerning areas where gambling premises should not be located, this principles statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the possibility that the applicant can show how any concerns may be overcome.

1.8 **Duplication with other regulatory regimes:** The Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems wherever possible, including planning, building control, health and safety and fire safety. Should it come to the attention of the Licensing Authority that planning conditions or other regulatory restrictions/controls may impact on a premises operator's ability to comply with mandatory or default conditions then it may alert the applicant accordingly. 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 control.

1.9 **Licensing objectives:** Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission Guidance and provides some commentary below:

**(1) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

The Gambling Commission takes the leading role in preventing gambling from being a source of crime. Where a particular area is associated with criminal activity the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be appropriate, for example the provision of door supervisors. There is a distinction between disorder and nuisance and the Licensing Authority will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed when determining applications under the Gambling Act 2005.

**(2) Ensuring that gambling is conducted in a fair and open way.**

The Gambling Commission states in its Guidance that it would, with the exception of tracks, generally not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this is addressed via Operator and Personal licensing requirements. If the Licensing Authority suspects that gambling is not being conducted in a fair and open way then this will be brought to the attention of the Gambling Commission for its further consideration.

**(3) Protecting children and other vulnerable persons from being harmed or exploited by gambling:**

The Gambling Commission has stated, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

The Licensing Authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include such matters as supervision of entrances/machines or segregation of areas and the Licensing Authority will also have due regard to any relevant Codes of Practice issued by the Gambling Commission concerning this licensing objective in relation to specific premises.

The Gambling Commission does not provide a definition for the term 'vulnerable persons' but states that for regulatory purposes assumes that this group includes people who:

- gamble more than they want to;
- gamble beyond their means; and
- may not be able to make informed or balanced decisions about gambling due to mental health needs alcohol or drugs.

The Licensing Authority will consider this licensing objective on a case by case basis.

#### 1.10 **Conditions:**

Since the Licensing Authority must aim to permit the use of premises for gambling, it will not attach conditions which limit the use of the premises for gambling, except where that is necessary as a result of the requirement to act:

- in accordance with the Gambling Commission Guidance, the Commission's codes of practice or this Licensing Authority's Statement of Policy; or
- in a way that is reasonably consistent with the licensing objectives.

This Licensing Authority notes that conditions on premises licences should only relate to gambling, and it is not necessary, proportionate or appropriate to impose conditions on a premises licence where the Gambling Commission's Licence Conditions and Codes of Practice, or other legislation, places the same or similar duties, responsibilities or restrictions on an employer or the operator of gambling premises.

This Licensing Authority shares the view of the Gambling Commission that the mandatory and default conditions set by the Secretary of State will normally be adequate for the general good conduct of gambling premises. However, where there are specific, evidenced risks or problems associated with a particular locality, specific premises, or class of premises in its area then the Licensing Authority may be able to attach individual conditions to address this.

Any conditions attached by the Licensing Authority to a premises licence shall be:

- carefully considered in view of the matters mentioned above at 1.10;
- proportionate and directly related to the premises and the type of licence applied for;
- relevant to the need to make the proposed building suitable as a gambling facility;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Sections 169 to 172 of the Act set out certain matters that may not be the subject of Licensing Authority conditions, and these are set out below:

- any condition on the premises licence which makes it impossible to comply with an operator 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.

The Licensing Authority will have due regard to these matters when considering the need for conditions.

1.11 The Licensing Authority will also consider specific measures which may be required for buildings which are the subject of more than one premises licence. In considering these matters the Licensing Authority shall have due regard to:

- any mandatory or default conditions of licence,
- any relevant Codes of Practice (particularly social responsibility provisions linked to operator licences) issued by the Gambling Commission; and
- Gambling Commission Guidance.

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 specific non-adult gambling premises in order to promote the licensing objectives.

1.12 The Licensing Authority must be satisfied that where category C or above machines are available 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.

These considerations may apply to premises including buildings where more than one premises licence is applicable.

1.13 'Tracks' may be subject to one, or more than one, premises licence provided each licence relates to a specified area of the track. In accordance with the Gambling Commission Guidance, the Licensing Authority will consider the impact upon the protection of children 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.

1.14 In accordance with Gambling Commission Guidance, the Licensing Authority may consider whether door supervisors are appropriate in particular circumstances in order to:

- prevent premises from becoming a source of crime or disorder; or
- protect children and vulnerable persons from being harmed or exploited by gambling.

Should the Licensing Authority consider that door supervisors are necessary and appropriate in particular circumstances to promote the licensing objectives for a specific premises, it will normally expect that any person employed as a door supervisor at that premises will either:

- meet the minimum requirements necessary for that individual to be licensed by the Security Industry Authority (SIA) in normal circumstances (accepting that there is a specific exemption from the licensing of door supervisors by the SIA for in-house staff of casino and bingo premises); or
- the holder of the operator licence will have recruitment criteria for their door supervisors, which may specify:
  - (a) a minimum training standard (whether within the organisation, or a nationally accredited training course); and
  - (b) an assessment of whether that individual is fit and proper, for example by means of a subject access search, Criminal Records Bureau (CRB) disclosure or other means.

## 2. Reviews

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2.1 An application for review of a premises licence may be made by:

- a interested party;
- a responsible authority; and
- the Licensing Authority, for :
  - (i) a particular class of premises licence; or
  - (ii) in relation to a particular premises.

It is for the Licensing Authority to decide whether the review is to be carried-out.

2.2 Any request for a review should normally relate to matters relevant to one or more of the following:

- any relevant code of practice issued by the Gambling Commission;
- any relevant guidance issued by the Gambling Commission;
- the licensing objectives, and
- the Licensing Authority's statement of principles.

When considering any review request, or whether to instigate its own review, the Licensing Authority will have due regard to the guidance issued by the Gambling Commission and consider;

:

- each application on its merits;
- whether matters raised in the application are frivolous or vexatious;
- whether the application would certainly not cause it to amend/suspend or revoke the licence; or
- whether the request is substantially the same as any previous representations, requests made for a review or previous application for the same premises.

Officers of the Authority may attempt informal mediation or dispute resolution techniques, where practicable, prior to a review being conducted.

- 2.3 A review application must only be determined by a Sub-Committee, and not by an officer. The purpose of a review is to determine whether the Licensing Authority should take any action in relation to the licence. The Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations. If action is justified, the options are to:
- (a) add, remove or amend a licence condition imposed by the Licensing Authority;
  - (b) exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such and exclusion;
  - (c) suspend the premises licence for a period not exceeding 3 months; or
  - (d) revoke the premises licence.

### 3. Provisional Statements

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- 3.1 An applicant may apply for a full premises licence where the premises are uncompleted or unaltered. However an applicant for a provisional statement does not need the right of occupation or an operator licence (granted or applied for) which are required in order to apply for a premises licence.
- 3.2 An application may be made to the Licensing Authority, under section 204 of the Act, for a provisional statement in respect of premises that the applicant expects to;
- o be constructed;
  - o be altered;
  - o acquire a right to occupy.

An application may also be made for a provisional statement for premises already having a premises licence (either for a different type of gambling or the same type).

- 3.3 When considering an application for a provisional statement the Licensing Authority shall have due regard to the guidance issued by the Gambling Commission (in particular Part 11). Subject to any necessary modifications, the process for considering an application for a provisional statement is the same as that for a premises licence, including the rights of interested parties and responsible authorities to make representations and rights of appeal.
- 3.4 If representations about a premises licence application, following the grant of a provisional statement, are received then they may not be taken into account unless they concern matters which could not have been addressed when determining the provisional statement, or they reflect a material change in the circumstances of the application. The Licensing Authority must determine the premises licence, referring only to matters:
- (a) which could not have been raised by way of representations at the provisional statement stage;
  - (b) which in the Licensing Authority's opinion reflect a change in the operator's circumstances; or

- (c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. If there are substantial changes to the plan the Licensing Authority will discuss any concerns with the applicant before making a decision.

3.5 In accordance with section 210 of the Act (which applies to premises licences and provisional statements), the Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

## 4. Temporary Use Notices

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4.1 Temporary Use Notices (TUNS) allow the use of premises for gambling where there is no premises licence but where a licensed gambling operator wishes to use the premises for providing facilities for equal chance gaming. The Gambling Commission Guidance suggests that premises that might be suitable for TUNS include hotels, conference centres and sporting venues, and that equal chance gaming may include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker (but may not be provided by means of machine).

4.2 There are a number of statutory limits that apply in respect of Temporary Use Notices, including that a TUN may only be granted to a person or company holding a relevant operator licence, in effect a non-remote Casino Operating licence, and limitations on the number of times a 'set of premises' can be used under these provisions.

4.3 A 'set of premises', as referred to by section 218 of the Act, is the subject of a Temporary Use Notice if any part of the premises is the subject of a notice. This reference to 'premises' is not the same as that in Part 8 of the Act and prevents one large premises from serving TUNS for different parts of the premises and exceeding the statutory limit of 21 days in any 12 month period.

4.4 The Licensing Authority will take into account Gambling Commission Guidance when considering whether a place falls within the definition of a 'set of premises'. This consideration may include looking at the ownership, occupation and control of the premises. The Gambling Commission Guidance advises that being a new type of permission, Licensing Authorities should be ready 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.

4.5 Where a notice of objection is received in respect of a Temporary Use Notice, the Licensing Authority will hold a hearing and consider representations from:

- the person who gave the notice
- any person who objected to the notice; and
- any party who was entitled to receive a copy of the Temporary Use Notice.

Where all parties agree that a hearing is unnecessary, the hearing may be dispensed with.

4.6 Where objections are made, a modification to the Temporary Use Notice may be proposed, which could include a:

- reduction in the number of days when gambling occurs; and/or
- restriction on the type of gambling which may take place.

4.7 Where, following a hearing or after a hearing has been dispensed with, the Licensing Authority considers that the Temporary Use Notice should not have effect, it must issue a counter-notice which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling;
- allow the activity to take place subject to a specified condition.

The principles which the Licensing Authority will apply in determining a TUN are those which it will apply when determining a premises licence, subject to its view as to whether it accords with:

- a Gambling Commission code of practice;
- the Guidance issued by the Gambling Commission;
- the Licensing Authority's statement of licensing principles; and
- is reasonably consistent with the licensing objectives.

## 5. Occasional Use Notices

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5.1 Occasional Use Notices (OUNS) permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is taking place is of a temporary, infrequent nature. The Occasional Use Notice dispenses with the need for a Betting Premises Licence for the track in these circumstances.

5.2 The OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track.

5.3 The Licensing Authority must ensure that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will consider the definition of a 'track', which need not be a permanent fixture, and whether the applicant is eligible to serve the notice.

## 6. Casinos

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6.1 This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but retains the power to do so. Any change will be published in this Statement of Principles and on the Council's website during any intervening period.

6.2 Where a Licensing Authority has the power to determine a premises licence application for a new style casino, it will do so following any regulations under Section 175 of the Gambling Act 2005 published by the Secretary of State.

6.3 The Act lays down a framework for a two-stage process for considering applications in circumstances where the number of applications exceeds the number of licences available, and this will be followed by the Licensing Authority.

6.4 **Licence considerations/conditions:** The Licensing Authority shall have due regard to Gambling Commission guidance in relation to the suitability and layout of

casino premises, and also the guidance issued by the Commission on primary gambling activity at casino premises.

Conditions maybe attached to casino operator licences by the Gambling Commission to restrict the types of casino games that may be made available, or specifying rules for casino or equal chance games played in a casino. The Licensing Authority will make itself aware of any operating, mandatory and default conditions, codes of practice and Gambling Commission guidance when considering applications, and attachment of any conditions, for casino premises licences.

- 6.5 **Betting machines:** Where betting is permitted in a casino the Licensing Authority will normally, in accordance with Gambling Commission 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 (bet receipt terminals) an operator wants to make available.

## 7. Bingo premises

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- 7.1 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category B or C or machines are made available for use on premises to which children are admitted Licensing Authorities should ensure that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; and
  - only adults are admitted to the area where the machines are located.
- 7.2 The Licensing Authority shall have due regard to relevant licence conditions and codes of practice in relation to the operation of bingo premises, and also the Gambling Commission's guidance about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of bingo premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.

## 8. Betting premises

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- 8.1 **Betting machines:** The Licensing Authority will normally, in accordance with Gambling Commission 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 (bet receipt terminals) an operator wants to make available. Children and young persons will not be able to enter premises which hold a Betting Premises licence, unless the special rules applying to tracks are applicable.
- 8.2 The Licensing Authority shall have due regard to the Gambling Commission Guidance in relation to the suitability and layout of betting premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.

- 8.3 Betting machines (bet receipt terminals) are not gaming machines under the Act, and do not accrue against the premises entitlement for gaming machines, unless the machine is designed or adapted for use to bet on **virtual** races (that is, images generated by computer to resemble races or other events) in which case it is considered a gaming machine. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

## 9. Track premises

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- 9.1 Tracks are defined under the Act as a 'horse race course, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place'. Examples of tracks may include:

- horse racecourse
- greyhound track
- point-to-point horse race meeting
- football, cricket or rugby ground
- athletics stadium
- golf course
- venues hosting darts, bowls or snooker tournaments
- premises staging boxing matches
- sections of river hosting a fishing competition
- motor racing events

This list is not exhaustive, but gives an example of the types of venue which could accommodate the provision of betting facilities.

- 9.2 There are three types of authorisation under which betting facilities may be made available at a sporting event:

- an Occasional Use Notice (OUN);
- a Temporary Use Notice (TUN); and
- a Track Premises Licence.

Betting in relation to tracks may be provided either as on-course or off-course betting. The different types of betting are explained in detail in the Guidance issued by the Gambling Commission, and this is available via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

- 9.3 A Betting Premises Licence permits a premises to be used for the provision of facilities for betting, whether by:

- making or accepting bets;
- acting as a betting intermediary; or
- providing other facilities for the making or accepting of bets.

- 9.4 Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specific area of the track. This allows track venues to develop leisure facilities such as a casino and apply for a (casino) premises licence for that part of the track.

- 9.5 There is no special class of Betting Premises Licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of tracks.
- 9.6 Special rules apply to applicants for a premises licence in relation to a track. Most importantly the applicant need not hold an operator licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him but will be provided by other operators who come on-course. Since those people will require the necessary operator licence(s), the Act allows the track operator to obtain a premises licence without also having to hold an operator licence. This 'Track Premises Licence' then authorises anyone upon the premises with a valid operator licence to offer betting facilities.
- 9.7 Track premises licences are distinguished from all other premises licences because children and young persons are allowed to be present on the track while betting is taking place on those licensed premises.
- 9.8 Track premises that safeguard the achievement of the three licensing objectives may generally be considered fit for gambling, and some general principles whereby Licensing Authorities can establish whether a track is fit for the provision of gambling facilities are outlined as follows:

Licensing objective	Issues to consider	Reason to consider a track premises unfit for gambling purposes?
<b>The protection of children and other vulnerable persons from being harmed or exploited by gambling</b>	Tracks permit access to children.	No - Children are allowed access to tracks on race days.
	Bet receipt terminals in areas where there is no supervision which would allow children or young persons to use machines undetected.	No - It is a mandatory condition of the operating licence that operators ensure that bet receipt terminals are supervised. This is not an issue for the premises licence.
	Children are allowed access to areas siting category B and C gaming machines.	It is a mandatory condition of the operating licence that operators ensure that children are not allowed access to areas where category B and C gaming machines are provided.  However, section 182 of the Act also creates a premises licence condition that children and young persons must be excluded from areas where any gaming machines other than

<b>The protection of children and other vulnerable persons from being harmed or exploited by gambling</b>  (...continued)	Betting areas adjacent to areas where children or young persons are present such as play areas.	category D are located.  No - Children are allowed access to tracks on race days and so will be exposed to gambling areas. It is a mandatory condition of the operating licence that operators do not accept bets from children or young persons.
	Betting areas adjacent to areas where children or young persons are present such as play areas.	The Commission considers that the location of betting does not generally pose a risk to this licensing objective. Licensing authorities may impose their own local conditions where they perceive problems.
<b>Ensure gambling is conducted in a fair and open way</b>	The rules of betting are not displayed on the premises.	No (not an issue at application stage) - it is a mandatory condition of the premises licence that the rules of betting are displayed.
	Unlicensed betting operators are allowed to operate on tracks.	No (not an issue at application stage) - it is a mandatory condition of the premises licence that licence holders make arrangements to ensure that they only allow licensed operators on track.
	Betting takes place out of approved hours.	No (not an issue at application stage) - it is a mandatory condition of the premises licence that betting only takes place within the specified hours.
<b>Prevent gambling from being a source of crime and disorder</b>	Betting is allowed in all parts of a track resulting in greater difficulties for track premises licence holders to identify instances of illegal betting.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.
	No formal exit/entry points allowing easy access for unapproved operators and customers.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.

The Licensing Authority will take any such guidance into consideration when determining an application for a track premises licence.

**Access to premises and other parts of the track:**

9.9 Access between premises licensed for gambling and non-gambling areas is an important local licensing consideration, for reasons that include the following:

- (a) to prevent operators from seeking to circumvent the Act by artificially subdividing a premises and securing separate premises licences for its composite parts;
- (b) to ensure that operators do not circumvent regulations governing the maximum number of gaming machines applicable to specific premises;
- (c) to ensure that people who have entered a premises for one type of gambling are not exposed to another, potentially harder, form of gambling;
- (d) to ensure that there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- (e) to ensure that all gambling premises have publicly accessible entrances;
- (f) to ensure that gambling premises are not developed in the backrooms of other commercial premises.

**Access by children - special dispensation for tracks:**

9.10 The Act forbids all persons under 18 years old to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the betting ring, where betting takes place. This dispensation does not, however, apply to:

- o areas within a track where category C or above machines are provided; or
- o other premises to which under 18 year olds are specifically not permitted access.

Licensed betting operators at tracks are bound by their operating licence conditions which prevent them from accepting bets from persons who are under 18 years old. The track premises licence holder is also required through premises licence conditions to display a notice in a prominent place at every public entrance stating that no person under the age of 18 is permitted to bet on the premises.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.

9.11 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. The Licensing Authority

will normally expect premises licence applicants to demonstrate suitable measures to ensure the children do not have access to adult only gambling facilities.

Appropriate measures may include:

- Proof of Age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

### **Betting on event and non-event days:**

- 9.12 **Hours of betting on event days:** Premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days. The Licensing Authority will not generally expect to re-assess a licence application as a result of a change to the dates of sporting events, but would expect applicants and licence holders to make information about sporting fixtures available as part of the application.

Significant changes to the fixture/events listing have a bearing on the licence conditions in that track premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days.

- 9.13 **Hours of betting on non-event days:** On days when no public sporting event is taking place on a track, gambling facilities may only be provided on the track between the hours of 7am and 10pm. Where the premises user intends to continue to offer facilities for gambling outside the proposed gambling hours on non-event days these facilities should be provided by means of an Occasional Use Notice (OUN).

- 9.14 On non-event days, tracks become similar to licensed betting offices on the high street. Tracks may achieve this requirement by:

- (a) locating all betting areas inside an area of the premises that is separated from the remainder of the premises by a physical barrier, thereby preventing access other than through a designated entrance;
- (b) only admitting adults to the part of the track where betting areas are located, by establishing procedures for verifying customer ages and refusing entry to adult-only areas for those unable to produce an acceptable form of identification (and taking action where there are unlawful attempts to enter adult-only areas);

(c) placing prominent notices in front of and inside each entrance stating that access to the area is prohibited to persons under 18.

- 9.15 The Licensing Authority may consider reducing the default gambling hours, providing any reduction is consistent with the principles set out in section 153 of the Act.

### **Bet receipt terminals**

- 9.16 Licensed operators may install bet receipt terminals on tracks. There is no restriction on the number of bet receipt terminals that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age.

There is no formal requirement on track premises licence holders to involve themselves in the procedures used by betting operators to supervise their bet receipt terminals unless specific local conditions specifying supervisory arrangements are added to the track premises licence by the Licensing Authority terminals.

### **Gaming machines**

- 9.17 A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence.

Where a track owner holds both a track premises licence *and* a pool betting operating licence issued by the Gambling Commission (in effect, greyhound tracks only), they may site up to four gaming machines within categories B2 to D on the track.

Some tracks may also hold a premises licence under the Licensing Act 2003. As such they will be automatically entitled under section 282 of the Act to two gaming machines of category C or D.

In such scenarios the operating licence entitlement does not take precedence, and each licence has its own requirements that must be complied with.

- 9.18 Applications for permits to allow additional gaming machines are not permitted where the premises is already covered by a track premises licence. It is a condition of section 282 of the Act that alcohol-licensed premises licence holders (not necessarily the owners) must comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine. The gaming machine permits code of practice can be found on the Gambling Commission website.

- 9.19 Where track premises licence holders possess a pool betting operating licence, the Commission places a mandatory licence condition on such operators that they must:
- o have and put into effect documented policies and procedures to prevent underage gambling, and monitor the effectiveness of these.

### **Track administration:**

9.20 **Administration of betting:** Administrative and quasi-regulatory arrangements in place to ensure that activities held on tracks run smoothly for paying customers, track operators and betting operators, are considered to be outside the remit of the Act unless they affect the licensing objectives.

9.21 **The role of track premises licence holders:** The responsibilities of track premises licence holders are established by the mandatory and default licence conditions attaching to their premises licence.

The licensed betting operators authorised by track owners to provide betting facilities at tracks must comply with their operating licence conditions and codes of practice issued by the Commission.

Track premises licence holders have a responsibility to report regulatory breaches or potential breaches relating to the premises itself or to betting operators.

9.22 **Acceptance of bets:** Track premises licences for greyhound tracks and racecourses are subject to mandatory licence conditions requiring access to be offered at the track-side to betting operators generally. This prevents track premises licence holders who are also pool betting operators from becoming a monopoly supplier of betting on tracks.

While this does not mean that there must be independent betting operators on tracks on event days, track premises licence holders cannot hold event days without at least making places available to licensed operators. This matter is the responsibility of the Gambling Commission and not the Licensing Authority.

### **Pool betting:**

9.23 Under the Act, holders of track premises licences on licensed greyhound tracks are given exclusivity to offer pool betting facilities on greyhound racing. They may also authorise other people to conduct such pool betting on their behalf, although in all cases a relevant operating licence will be required to license this activity.

A totalisator on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect.

### **Admission of betting operators:**

9.24 It is a mandatory premises licence condition of track premises licences that the licence holder makes arrangements to ensure that the betting operators they admit to their track operate under valid operating licences.

Track premises licence holders are responsible for determining their own arrangements for the verification of betting operators. As part of this process, the track premises licence holder should make arrangements for ensuring that the betting operator holds an operating licence. Additionally, both parties should agree a procedure for assessing whether persons accepting bets on behalf of a betting operator either themselves hold operating licences in their own right, or are employed by the operator under a written contract of employment.

### **Removal of illegal betting operators:**

- 9.25 Track premises licence holders are required by a mandatory licence condition to take reasonable steps to remove from the racecourse anybody found to be providing facilities for gambling without authorisation. Failure to uphold this requirement could result in action being taken against the premises licence holder.

Track premises licence holders are not expected to have pro-active policies and procedures for identifying illegal gambling other than the mandatory requirement to verify that betting operators offering betting facilities on their track hold suitable operating licences.

### **Display of rules:**

- 9.26 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks.

The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in. If certain areas are restricted to certain customers (such as different stands within a football ground) then rules could be displayed at various parts of the track. Other measures could be taken to ensure that they are made available to the public, such as printing them in the race-card or programme. The requirement could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one.

Betting operators offering betting facilities on racecourses and at greyhound tracks are required through the conditions of their operating licence to clearly display any of their own rules that differ from those that the track premises licence holder elects to display, and their rules concerning voids, late bets, and maximum payouts. For racecourses and greyhound tracks, the maximum payout will vary according to the rules of individual on-course operators.

### **Approved betting areas:**

- 9.27 **Betting areas:** In considering applications, the Licensing Authority will take into account the licensing objectives and assess whether these objectives are compromised by proposed betting arrangements. The location of betting areas (other than those for gaming machines and bet receipt terminals) is not considered a threat to the licensing objectives and therefore no additional conditions would normally be imposed by licensing authorities, unless the circumstances are such that the Licensing Authority considers that the licensing objectives would be undermined.

- 9.28 **Multiple licences:** The Act permits a Licensing Authority to issue more than one premises licence for a track provided that each licence relates to a distinct specified area of the track (although there cannot be more than one premises licence covering the same area of the track.) This enables track owners to extend existing facilities to provide other gambling facilities such as a casino on their existing tracks, whereby these additional gambling activities are covered by separate premises licences.

Where an application is made for an additional premises licence, the Licensing Authority will consider the following matters when determining an application:

- access issues in particular whether access to the desired premises will be allowed directly from the track. Direct access between a track and other betting premises (other than a track betting shop) is not permitted. The track owner would need to make arrangements so that access to a casino or bingo hall would be via a street, not via the track itself.

Where a particular area of a track is already subject to a premises licence, and a person wishes to apply for a licence to offer another type of activity in that area, an application must be made to the Licensing Authority to vary the original premises licence. The new track premises licence can only be granted at the same time as, or after, the original licence has been varied.

Where the Licensing Authority receives an application indicating separate betting areas that may not necessarily have clear physical boundaries, such as walls or fencing, it may grant the licence where it is satisfied that the area is clearly delineated, both in terms of making it clear to the public that they are entering a 'betting office', and to keep out persons aged under 18.

Where the Licensing Authority is not satisfied that a new activity in an existing area is clearly delineated, it may consider refusing the application.

### **Social responsibility considerations for tracks:**

- 9.29 The Act places a condition on the track premises licence that the licensee shall ensure that children and young persons are excluded from any area where facilities for betting are provided (unless on race days at racetracks and at greyhound tracks).

## **10. Adult Gaming Centres**

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- 10.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

The Licensing Authority may determine the opening hours for Adult Gaming Centres, on a case-by-case basis, in the absence of any default conditions addressing this matter.

## 11. (Licensed) Family Entertainment Centres

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- 11.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only Category C gaming machine areas.

The Licensing Authority will require applicants to demonstrate that there will be sufficient measures to promote the licensing objectives. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Challenging children or young persons attempting to play category C machines
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

- 11.2 The Licensing Authority will, in accordance with the Gambling Commission Guidance, make itself aware of any conditions that may apply to Operator licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will ensure that it has due regard to any mandatory or default conditions on these Premises Licences and Codes of Practice and guidance issued by the Gambling Commission when dispensing its functions in relation to licensed Family Entertainment Centres

The Licensing Authority may determine the opening hours for licensed FEC's, on a case-by-case basis, in the absence of any default conditions addressing this matter.

## **PART C: PERMITS, TEMPORARY USE NOTICES, OCCASIONAL USE NOTICES & SOCIETY LOTTERIES**

### **1. Unlicensed Family Entertainment Centre (unlicensed FEC's) gaming machine permits**

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- 1.1 Unlicensed Family Entertainment Centres (FEC's) are commonly located at seaside resorts, in airports and at motorway service stations, catering for families - including unaccompanied children and young persons. Where a premises does not hold a Premises Licence but there is an intention to provide gaming machines (category D only), an application may be made to the Licensing Authority for the grant of this permit. The applicant must be an individual aged 18 or over, and he/she must occupy or plan to occupy the relevant premises. The Licensing Authority may only grant a permit where it is satisfied that the applicant intends to use the premises as an unlicensed FEC and where it has consulted the Chief Officer of Police on the application. Any duties on the applicant to comply with other legislation such as fire regulations or Health and Safety are not issues for the Licensing Authority under the Gambling Act 2005.
- 1.2 If the operator of a Family Entertainment Centre intends to make category C machines available, in addition to category D machines, then an application must be made for an Operator Licence from the Gambling Commission and a Premises Licence from the Licensing Authority (see Part B Section 11 on (Licensed) Family Entertainment Centres).
- 1.3 Detail of any up to date application requirements, including any supporting documentation required, is available via the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) or from the Licensing Team direct.
- 1.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 1.5 **Statement of Principles:**

The Licensing Authority will expect the applicant to satisfy it that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's. The applicant is expected to demonstrate that he has considered appropriate measures to promote the licensing objectives, and training for staff on issues such as:

- suspected truant school children on the premises;
- how staff would deal with unsupervised very young children being on the premises;
- children causing problems on or around the premises; and
- maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's

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

- 1.6 The Chief Officer of Police is a statutory consultee for all such permit applications, and any representations made by him will be considered by the Licensing Authority.
- 1.7 The Licensing Authority may also require the applicant to provide details of any relevant convictions, (those that are set out in Schedule 7 of the Act), and the following documents would be acceptable for such purposes:
- o basic Criminal Records Bureau disclosure; or
  - o a police subject access search<sup>25</sup>

## 2. Club Gaming Permits

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- 2.1 Members Clubs and Miners' welfare institutes (but not commercial Clubs) may apply for a Club Gaming Permit which authorises the premises to:
- o make available for use up to 3 gaming machines of categories B3A to D,
  - o equal chance gaming (without restriction on the stakes and prizes); and
  - o games of chance as prescribed by regulations (namely pontoon and chemin de fer).

The gaming which a club gaming permit allows is subject to the following conditions:

### **In respect of equal chance gaming:**

- (a) The club must not deduct money from sums staked or won;
- (b) The participation fee must not exceed the amount prescribed in regulations;
- (c) The game takes place on the premises and must not be linked with a game on another set of premises. Two games are linked if:
  - (i) the result of one game is, or may be, wholly or partly determined by reference to the result of the other game; and
  - (ii) the amount of winnings available in one game is wholly or partly determined by reference to the amount of participation in the other game, and a game which is split so that part is played on one site and another part is played elsewhere is treated as two linked games

Only club members and their genuine guests participate.

### **In respect of other games of chance:**

- (a) The game must be pontoon or chemin de fer only;
  - (b) No participation fee may be charged otherwise than in accordance with the regulations;
  - (c) no amount may be deducted from sums staked or won otherwise than in accordance with the regulations.
- 2.2 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 such regulations

covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

A club gaming permit may not be granted in respect of a vehicle or a vessel.

2.3 The Licensing Authority may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' 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 Gambling Commission or the Suffolk Constabulary.

Where the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. In determining an application the Licensing Authority shall have regard to the relevant guidance issued by the Gambling Commission and, subject to that guidance, the licensing objectives.

2.4 Where a permit is granted, the permit holder must comply with statutory conditions:

- no child or young person may use a category B or C machine on the premises; and
- the permit holder must comply with any relevant provision of a code of practice regarding the location and operation of gaming machines.

Clubs do not have to have a permanent premises or alcohol licence.

2.5 There is a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Where an application is made under the fast track procedure, there is no opportunity for objections to be made by the Commission or the Suffolk Constabulary, and the grounds upon which an Authority can refuse a permit are limited as below:

- (a) the club is established primarily for gaming, other than gaming of a prescribed kind;
- (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. Club Machine Permits**

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3.1 Members clubs, Miners' welfare institutes and commercial clubs may apply for a Club Machine Permit, which enables the premises to make available for use up to 3 gaming machines of categories B4, C and D. Members clubs and Miner's welfare

institutes only (i.e. not commercial clubs) may also make available for use category B3A machines offering lottery games in the club under a club machine permit.

- 3.2 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 such regulations covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

Commercial clubs must have at least 25 members, but may be established with a view to making a profit, which is not returned to the members, but the proprietor(s) of the club. Examples of commercial clubs may include snooker clubs, clubs established for personal profit and most clubs established as private companies.

- 3.3 The Gambling Commission Guidance advises 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 Gambling Commission or the Police

It should be noted that either type of permit may not be issued in respect of a vessel or vehicle.

- 3.4 There is also a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for an objection to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are that:

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

- 3.5 There are statutory conditions concerning Club Machine Permits that no child or young person may use a category B or C machine on the premises and that the permit holder complies with any relevant provision of a code of practice regarding the location and operation of gaming machines.

## 4. (Alcohol) Licensed Premises Gaming Machine Permits

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4.1 The Act makes provision for premises licensed to sell alcohol for general consumption on the premises to be entitled to make available up to 2 gaming machines, of categories C and/or D. The Licensing Act 2003 premises licence holder needs only to notify the Licensing Authority of this intention and pay the prescribed fee. The Licensing Authority may remove the automatic authorisation in respect of any particular premises only if it is satisfied that:

- 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.

Before making any such order the Licensing Authority shall give the licensee at least 21 days prior notice and consider any representations made by the applicant (at a hearing if requested by the licence holder).

4.2 If a Licensing Act 2003 premises licence holder wishes to use more than 2 gaming machines, then (s)he will need to apply to the Licensing Authority for a permit and the Licensing Authority must consider that application based upon:

- the licensing objectives;
- any guidance issued by the Gambling Commission; and
- 'such matters' as it thinks relevant.

This Licensing Authority considers that 'such matters' will be assessed on a case by case basis. Generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

This permit replaces, and is not in addition, to the automatic entitlement notification.

4.3 The Licensing Authority expects the applicant to satisfy it that there will be sufficient measures in place to ensure that persons under the age of 18 do not have access to the adult only category C gaming machines. The applicant may consider appropriate measures to comply with Gambling Commission Codes of Practice and monitor access to machines. This may include:

- ensuring that the adult gaming machines are within sight of the bar, or within the sight of staff who can monitor that the machines are not being used by persons under the age of 18;
- notices and signage may also be an appropriate measure/safeguard;
- the provision of information leaflets / helpline numbers for organisations that give support to vulnerable persons such as GamCare and Gamble Aware.

- 4.4 The holder of a permit must comply with any relevant code of practice issued under section 24 of the Act by the Gambling Commission concerning the location and operation of the gaming machines.
- 4.5 It should be noted that the Licensing Authority can and may 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 to the grant of this permit.

There is a similar mechanism for applying to vary the number and category of machines specified on an existing permit.

## 5. Prize Gaming and Prize Gaming Permits

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### 5.1 **Statement of principles:**

The prize gaming 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 monetary 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.

It should be also noted that this permit cannot be issued in respect of a vessel or vehicle.

An application may only be made by an individual over the age of 18, who occupies or plans to occupy the relevant premises. An application for a permit can not be made if a premises licence or club gaming permit is already in effect for the same premises.

- 5.2 The Licensing Authority will expect the applicant to satisfy the Authority that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes for the gaming offered and that the type of gaming offered is within the law. The applicant will normally be required to set out the types of gaming that he/she is intending to offer, and may wish to consider appropriate measures to promote the licensing objectives, and training for staff on:
- the type of gaming which they intend to provide; and
  - the stakes and prizes which apply under the regulations relevant to the type of gaming they intend to offer.

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

- 5.3 In making its decision on an application for this permit the Licensing Authority may have regard to the licensing objectives and must have regard to any Gambling Commission Guidance. Given that the premises may be particularly appealing to children and young persons, the Licensing Authority will give appropriate weight to the consideration of child protection issues.
- 5.4 The Chief Officer of Police is a statutory consultee for all such permit applications. Any representations made by the Chief Officer of Police which are relevant to the licensing objectives will be considered by the Licensing Authority relevant considerations may include:
- whether the applicant has any convictions that would render them unsuitable to operate prize gaming, or
  - the suitability of the location of the premises in relation to any disorder issues.

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

- 5.5 It should be noted that whilst there may be conditions in the Gambling Act 2005 and Gambling Commission codes of practice (including on social responsibility) with which the permit holder must comply, the Licensing Authority cannot attach conditions to this permit. Where the Authority is minded to refuse a permit application it will notify the applicant and allow the opportunity for the applicant to make representations (which may be considered at a hearing).

## 6. Travelling Fairs

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- 6.1 It is the duty of the Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit are 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.
- 6.2 The Licensing Authority will carefully consider whether an operator falls within the statutory definition of a travelling fair (provided by section 286 of the Act) and be 'wholly or principally' providing amusements.
- 6.3 The 27-day statutory maximum for the land being used as a fair is per calendar year, and that this 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. The Licensing Authority shall endeavour to work with neighbouring authorities to ensure that land which crosses district/borough boundaries is monitored so that the statutory limits are not exceeded.

## 7. Society Lotteries

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- 7.1 The Council as the Licensing Authority is responsible for registering small society lotteries. A lottery is defined under the Act and in the guidance as:

**A simple lottery** if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;

- the prizes are allocated by a process which relies wholly on chance.

**A complex lottery if:**

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a series of processes;
- the first of those processes relies wholly on chance.

A society, or any separate branch of such a society, may be registered by the council to promote a small lottery where it is established and conducted:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity;
- for any other non commercial purpose other than private gain;

and the proceeds of the lottery must be devoted to the purposes above. The society must not be established for the sole purpose of facilitating lotteries.

A small lottery is defined in the Act and the current limitations are published on the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) Definitions of exempt lotteries are also published at the above address.

- 7.2 The Council may only register a society which wishes to promote a small lottery where the society's principal office is located within its area. If the Council believes that the society's principal office does not fall within its boundaries it will inform the society at the earliest opportunity.

If the society's status is unclear, the Council may ask for the society applying to register with it to supply a copy of its terms of reference or constitution to enable it to establish that the society is non-commercial, together with a declaration to the effect that it is non-commercial.

- 7.3 Registration of small society lotteries is a function which the Council has delegated to officers. Details of societies registered by the council will be published in a register maintained by the Council.

The registration is for an indefinite period unless the registration is cancelled by:

- the society; or
- the council on failure of the society to pay the annual charge.

- 7.4 The Council may refuse to register a small society lottery where:

- an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused;
- the society can not be deemed non-commercial;
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence;
- information provided in or with the application for registration is found to be false or misleading.

Where the Council proposes to refuse to register a small society lottery it will give the society an opportunity to make representations in writing or at a hearing. The Council will notify the society in writing of the outcome of the hearing and the reasons for the decision.

- 7.5 The Council may revoke a society lottery registration where it considers that it would have had to, or would be entitled to, refuse an application if it were to be made at that time.

## SCHEDULE A

### **GAMBLING ACT 2005 STATEMENT OF LICENSING PRINCIPLES: CONSULTEE LIST FOR BABERGH DISTRICT COUNCIL**

1. Association of British Bookmakers Ltd Norris House 4 Norris Street LONDON SW1Y 4RJ	2. GamCare 2 <sup>nd</sup> Floor 7-11 St.John's Hill LONDON SW11 1TR
3. British Horseracing Board 151 Shaftesbury Avenue LONDON WC2H 8AL	4. BACTA Alders House 133 Aldersgate Street LONDON EC1A 4JA
5. British Casino Association 38 Grosvenor Gardens LONDON SW1B 0EB	6. Leisure Link 3 The Maltings BURTON-ON-TRENT Staffordshire DE14 1SE
7. Bingo Association Lexham House 75 High Street North DUNSTABLE Bedfordshire LU6 1JF	8. Essex Leisure Unit 26 West Station Industrial Estate MALDON CM9 6TW
9. Society for the Study of Gambling 16 Egerton Road LYMM WA13 0PA	10. Chilvers Automatics Ltd Langholm, Lodge Lane Langham COLCHESTER C04 5LZ
11. Gamestec Leisure Ltd Low Lane Horsforth LEEDS LS18 4YY	12. Alcoholics Anonymous P O Box 1 Stonebow House YORK Y01 7NJ
13. National Association of Bookmakers Ltd 19 Culm Valley Way Uffculme DEVON EX15 3XZ	14. Help the Aged 207-221 Pentonville Road LONDON N1 9UZ
15. British Greyhound Racing Board 32 Old Burlington Street LONDON W1S 3AT	16. Mencap Suffolk ( <del>Teresa Drake</del> ) Ground Floor Davies House Kempson Way BURY ST EDMUNDS IP33 7AR
17. National Youth Agency Westgate House 19-23 Humberstone Road LEICESTER LE5 3GJ	18. Suffolk County Council Social Care Services Endeavour House 8 Russell Road IPSWICH IP1 2BX

19.	Age Concern Suffolk County Office 8 Northgate Street IPSWICH IP1 3BZ	20.	Narcotics Anonymous UK Service Office 202 City Road LONDON EC1V 2PH
21.	Gordon House Association 186 Mackenzie Road BECKENHAM BR3 4SF	22.	Learning Disability Partnership Board ( <a href="#">Elsbeth Cummings</a> ) Social Services County Buildings SAXMUNDHAM IP7 1AL
23.	Suffolk Safeguarding Childrens Board ( <a href="#">Attn. Shirley Coleman</a> ) Endeavour House Floor 3 Block 3 8 Russell Road IPSWICH IP1 2BX	24.	Horseracing Betting Levy Board 52 Grosvenor Gardens LONDON SW1W 0AU Tel: 020 7333 0043 Fax: 020 7333 0041 www.hblb.org.uk
25.	National Stud Wavertree House NEWMARKET CB8 0XE Tel: 01638 663464 Fax: 01638 665173 <a href="http://www.nationalstud.co.uk">www.nationalstud.co.uk</a>	26.	Business in Sport & Leisure 17a Chartfield Avenue Putney LONDON SW15 6DX
27.	British Association of Leisure Parks, Piers & Attractions Limited (BALPA) Suite 12 37 Tanner Street LONDON SE1 3LF	28.	Brian Deane 9 Jennens Way Acton Lane SUDBURY CO10 0UZ
29.	C L Jennings 3-4 Gaol Lane SUDBURY CO10	30.	Corals Glebe House Vicarage Drive BARKING IG11 7NS
31.	Coral Estates Ltd 19-21 Station Road HAROLD WOOD Essex RM3 0BP	32.	William Hill Bridge House 47-55 Bridge Street WALSALL WS1 1JQ
33.	Delphi Club Newton Road SUDBURY CO10 2RR	34.	Ladbrokes Betting & Gaming Ltd Imperial House Imperial Drive, Rayners Lane HARROW Middlesex HA2 7JW
35.	Tesco Social Club Woodhall Business Park SUDBURY CO10	36.	Royal British Legion 48 Pall Mall LONDON SW1Y 5JY
37.	Tesco PLC Corporate Responsibility Team Delamare Road CHESHUNT EN8 9SL	38.	All parish and town hall clerks in the district.
39.	Persons representing a sample of premises licence holders/qualifying members clubs under the Licensing Act 2003 (including Greene King & Punch Taverns).	40.	All responsible authorities under the Gambling Act 2005.
41.	All schools in the district.		

## SCHEDULE B

**Section 353 of the Gambling Act 2005 gives some general interpretation and reference for some of the main terminology used within the Act and contained within this Statement of Principles document. Except where the context otherwise requires:**

- "adult" means an individual who is not a child or young person
- "adult gaming centre" has the meaning given by section 237
- "alcohol licence" has the meaning given by section 277
- "authorised local authority officer" has the meaning given by section 304
- "authorised person" has the meaning given by that section
- "betting" has the meaning given by sections 9 to 11, 37 and 150
- "betting intermediary" has the meaning given by section 13
- "bingo" means any version of that game, irrespective of by what name it is described
- "casino" has the meaning given by section 7
- "casino game" has the meaning given by that section
- "Category A gaming machine" (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 236
- "chief constables of police forces" has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16)
- "child" has the meaning given by section 45
- "club gaming permit" has the meaning given by section 271
- "club machine permit" has the meaning given by section 273
- "commercial club" has the meaning given by section 267
- "the Commission" means the Gambling Commission
- "director" -
- (a) has the meaning given by section 741 of the Companies Act 1985 (c. 6), and
  - (b) includes a shadow director within the meaning of that section
- "dog track" means premises which are designed, used or adapted for use for dog-racing
- "draw", in relation to a lottery, has the meaning given by section 255
- "EEA State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time)
- "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament
- "enforcement officer" means a person designated or appointed as an enforcement officer under section 303
- "equal chance gaming" has the meaning given by section 8
- "exempt lottery" has the meaning given by section 258
- "external lottery manager" has the meaning given by section 257
- "fair" has the meaning given by section 286
- "family entertainment centre" has the meaning given by section 238
- "family entertainment centre gaming machine permit" has the meaning given by section 247
- "football pools" means an arrangement whereby -
- (a) people compete for prizes by forecasting the results of association football games, and
  - (b) each entry to the competition must forecast the results of at least four games
- "gambling" has the meaning given by section 3
- "gambling software" has the meaning given by section 41
- "game of chance" has the meaning given by section 6
- "gaming" has the meaning given by that section
- "gaming machine" has the meaning given by section 235
- "horse-race course" means premises which are designed, used or adapted for use for horse-racing
- "horse-race pool betting" has the meaning given by section 12
- "large casino" has the meaning given by regulations under section 7(5)

"licensed family entertainment centre" has the meaning given by section 238

"licensed premises gaming machine permit" has the meaning given by section 283

"the licensing objectives" has the meaning given by section 1

"licensing authority" has the meaning given by section 2

"lottery" has the meaning given by section 14 (and section 256)

"lottery manager's operating licence" has the meaning given by section 98

"lottery ticket" has the meaning given by section 253

"machine" has the meaning given by section 235(3)(a)

"members' club" has the meaning given by section 266

"miners' welfare institute" has the meaning given by section 268

"the National Lottery" has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39)

"non-commercial betting" has the meaning given by section 302

"non-commercial gaming" has the meaning given by section 297

"non-commercial society" has the meaning given by section 19

"occasional use notice" means a notice given under section 39

"operating licence" means a licence issued under Part 5

"on-premises alcohol licence" has the meaning given by section 277

"participant", in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game

"participation fee" has the meaning given by section 344

"passenger vessel" means a vessel which is carrying or expected to carry at least one passenger

"personal licence" means a licence issued under Part 6

"pool betting" has the meaning given by section 12

"premises" includes any place and, in particular -

- (a) a vessel, and
- (b) a vehicle

"premises licence" means a licence issued under Part 8

"private betting" has the meaning given by section 295 and Part 2 of Schedule 15

"private gaming" has the meaning given by section 295 and Part 1 of Schedule 15

"private gain" is to be construed in accordance with section 19(3)

"prize" in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6

"prize" in relation to a gaming machine has the meaning given by section 239

"prize" in relation to a lottery has the meaning given by section 14

"prize gaming" has the meaning given by section 288

"prize gaming permit" has the meaning given by section 289

"proceeds", in relation to a lottery, has the meaning given by section 254

"profits", in relation to a lottery, has the meaning given by that section

"profits", in relation to non-commercial prize gaming, has the meaning given by section 299

"racecourse" means premises on any part of which a race takes place or is intended to take place

"real", in relation to a game, event or process means non-virtual

"relevant offence" has the meaning given by section 126 and Schedule 7

"remote communication" has the meaning given by section 4

"remote gambling" has the meaning given by that section

"remote gambling equipment" has the meaning given by section 36

"remote operating licence" has the meaning given by section 67

"rollover", in relation to a lottery, has the meaning given by section 256

"small casino" has the meaning given by regulations under section 7(5)

"society" includes a branch or section of a society

"stake" means an amount paid or risked in connection with gambling and which either -

- (a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or

(b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates

"supply" includes -

- (a) sale,
- (b) lease, and
- (c) placing on premises with permission or in accordance with a contract or other arrangement

"temporary use notice" has the meaning given by section 215

"track" means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place

"travelling fair" has the meaning given by section 286

"vehicle" includes -

- (a) a train,
- (b) an aircraft,
- (c) a seaplane, and
- (d) an amphibious vehicle (other than a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59))

"vessel" includes -

- (a) anything, other than a seaplane or an amphibious vehicle, designed or adapted for navigation or other use in, on or over water
- (b) a hovercraft (within the meaning of the Hovercraft Act 1968), and
- (c) anything, or any part of any place, situated in or on water

"virtual" has the meaning given by subsection (3) below

"winnings", in relation to a bet, means anything won, whether in money or in money's worth

"young person" has the meaning given by section 45

**SCHEDULE C**

<b>Summary of machine provisions by premises</b>							
<b>Machine category:</b>							
<b>Premises type:</b>	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>
<b>Large casino</b> (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to machine/table ratio)					
<b>Small casino</b> (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80 (subject to machine/table ratio)					
<b>Pre-2005 Act casino</b> (no machine/table ratio)		Maximum of 20 machines categories B to D or any number of C or D machines instead					
<b>Betting premises and tracks occupied by pool betting</b>		Maximum of 4 machines categories B2 to D					
<b>Bingo premises</b>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*Maximum of 8 machines in category B3 or B4		No limit on category C or D machines	
<b>Adult gaming centre</b>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*Maximum of 4 machines in category B3 or B4		No limit on category C or D machines	
<b>Family entertainment centre</b> (with premises licence)						No limit on category C or D machines	
<b>Family entertainment centre</b> (with permit)							No limit on category D machines
<b>Clubs or miners' welfare institute</b> (with permit)				Maximum of 3 machines in categories B3A or B4 to D*			
<b>Qualifying alcohol-licensed premises</b>						1 or 2 machines of category C or D automatic upon notification	
<b>Qualifying alcohol-licensed premises</b> (with gaming machine permit)						Number as specified on permit	
<b>Travelling fair</b>							No limit on category D machines
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3/B3A</b>	<b>B4</b>	<b>C</b>	<b>D</b>
<b>Maximum Stake</b>	No limit	£2	£100 (in	£24 (B3) £1 (B3A)	£1	£1	10p

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<b>Maximum Prize</b>	<u>No limit</u>	£4000	£10's £500	£500	£250	£70	£8 (max £5 monetary) NOT coin-pusher or penny falls  £15 (max £8 monetary) coin-pusher or penny falls <u>Variable</u> See table below
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Note: Machine category stakes/prizes may be subject to periodic regulatory amendment ~~from time to time~~ (table stated correct at June 2009)

\*Bingo/AGC premises are entitled to make available a number of Category B3/B4 gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

Premises in existence before 13 July 2011 are entitled to make available eight category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

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

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<u>D non-money prize (other than crane grab machine)</u>	30p	£8
<u>D non-money prize (crane grab machine)</u>	£1	£50
<u>D money prize</u>	10p	£5
<u>D combined money and non-money prize (other than coin pusher or penny falls machines)</u>	10p	£8 (of which no more than £5 may be a money prize)
<u>D combined money and non-money prize (coin pusher or penny falls machine)</u>	10p	£15 (of which no more than £8 may be a money prize)

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## SCHEDULE D

### **Gambling Activities: Children and Young Persons**

A **child** means an individual who is less than 16 years old (section 45(1)). A child can lawfully participate in the following forms of gambling:

- Category D Machines
- Equal chance gaming at a licensed family entertainment centre
- Equal chance gaming under prize gaming permit
- Football pools

A **young person** is an individual aged 16 or 17 years old (section 45(2)). A young person can lawfully participate in the following forms of gambling:

- Category D Machines
- Equal chance gaming at a licensed family entertainment centre
- Equal chance gaming under prize gaming permit
- Prize gaming at a travelling fair
- Prize gaming at a non-licensed family entertainment centre
- Private/non-commercial gaming/betting
- Lottery

# GAMBLING COMMISSION

## **Guidance to Licensing Authorities (4<sup>th</sup> edition)**

**Consultation document  
April 2012**

# Contents

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**Annex A – draft of Guidance to Licensing Authorities  
(4<sup>th</sup> edition)**

# 1 Introduction

- 1.1 This consultation paper sets out the Gambling Commission's (the Commission's) proposals for publishing the 4<sup>th</sup> edition of our Guidance to Licensing Authorities (the Guidance or GLA).
- 1.2 Under section 25 of the Gambling Act (the Act), the Commission is required to issue Guidance to licensing authorities and to consult on the Guidance before it is issued.
- 1.3 The last edition (GLA3) was updated in May 2009 and since then the Commission has developed its thinking in a number of areas and, although this has been communicated in other forms, we consider it appropriate and timely to further update the Guidance.
- 1.4 This consultation provides an opportunity for stakeholders to comment on the changes proposed and to make any other suggestions. The proposed revisions do not represent a change of policy or approach by the Commission, but incorporate new material on topics, such as poker and test purchasing, that have already been communicated to licensing authorities by other methods. Where we thought this would make the Guidance more accessible, we have re-ordered some sections and incorporated relevant material from publications such as quick guides and advice documents. As the Guidance is intended as the principal reference document for licensing authorities to assist with gambling licensing matters, there is a need for it to be revised so that its content is up to date.
- 1.5 We have also updated the Guidance to ensure it is consistent and we have corrected the references to documents that have been superseded or no longer exist. These minor amendments are not specifically mentioned in this consultation, but can be found marked up in the attached proposed 4<sup>th</sup> edition of the Guidance (GLA4).
- 1.6 For clarity, two versions of the draft GLA4 are published with this consultation. A 'marked up' version shows all the proposed changes (in various coloured texts) from GLA3 so that it is clear to see which areas have changed and which have not. A 'clean' version shows the proposed GLA4 with all those changes incorporated into the text and how the final published version would appear.
- 1.7 This will be a 12 week consultation and we would welcome comments by 6 July 2012. A responses document and the new 4<sup>th</sup> edition of the Guidance will be published in the summer.

# 2 Issues for discussion

- 2.1 In this section, we set out the key changes that we propose to make to the specific parts in the 4<sup>th</sup> edition of the Guidance with the aim of generating specific discussion on these points. Stakeholders are free to make general points about the proposed changes or to refer to other specific matters if they wish.

## General revisions to the Guidance

- 2.2 The majority of the revisions proposed are aimed at making the Guidance more up to date and succinct. However, we would like to draw attention to a number of changes that do not require explicit consultation, but are mentioned here for your reference. Those in this section are applicable throughout the Guidance wherever they occur:
  - Future proofing of the Guidance by amending specific references to the Commission's publications so as to signpost to the latest versions rather than always citing particular dates or editions.
  - Factual changes and updates, for example concerning changes in central government arrangements, such as references to the work of BERR (the Department for Business, Enterprise and Regulatory Reform) which now falls under BIS (the Department for

Business, Innovation and Skills). Similarly, the Standards Board for England no longer exists and the work referred to now falls under the Department for Communities and Local Government, and the Gambling Appeals Tribunal has been replaced by the First-tier Tribunal (Gambling).

- Changed references and updates to gaming machines stakes and prizes and gaming machines allocations, where the Regulations have changed since the last issue.
- Correction of references to the licence condition and code of practice on primary gambling activity, referred to as 'LCCP Supplement 4' in GLA3, but more correctly licence condition 16 and code of practice 9 in LCCP.

## Specific but minor changes to the Guidance

**2.3** Some small and specific matters of fact have been amended, to reference additional available material not integral to the Guidance; to provide updates on legislative change; or to clarify matters that have given rise to any degree of confusion in the previous edition of the Guidance. Your attention is drawn to these changes and comment is invited.

- Addition of a reference to the range of statutory application forms and notices that licensing authorities are required by the legislation to use as part of their gambling licensing responsibilities, together with advice on where to obtain copies (Part 6 and Appendix E).
- Reference to a document setting out the indicators that the Commission will use in assessing primary gambling activity in betting. These indicators are not brought into the Guidance but are referenced for information for licensing authorities (Part 7).
- Update to the arrangements for casino games trials and approvals, which have been relaxed significantly following consultation (Parts 9 and 17).
- Redrafting and clarification of the definitions of semi-automated and fully-automated casino games (Part 16).
- Clarification of a number of points about gaming machines entitlements in different situations (Part 16).
- Additional explanation for the purposes of calculating permitted gaming machines in bingo premises, regarding how to categorise electronic bingo terminals (EBTs) according to whether or not they also hold gaming machine content (Part 18).
- Redrafting and clarification of the rules on 'high turnover bingo' in clubs, which have not changed but were unclear in the GLA3 (Part 18).
- Reference to consideration of primary gambling activity in assessing applications for extended opening hours in bingo and betting is made (Part 18 and part 19).
- Reference to the Commission's indicators of primary gambling activity in betting premises is made (Part 19).
- Update to the arrangements for pool betting on tracks following the sale of the Tote (Part 20).
- Update on the plans for a Legislative Reform Order to address the anomaly in the Act preventing any employment of under-18s on tracks, and on changes to the 'five times rule' on tracks (Part 20).
- Update on the plans for a Legislative Reform Order to address the anomaly in the Act regarding entitlements to gaming machines in airside bars and at wharves.
- Update to the text on door supervision in Scotland to take account of the Licensing (Scotland) Act 2005 (Consequential provisions) Order 2009 (Part 33).

### Consultation question

Q1. Do you have any comments on the revisions highlighted in paragraph 2.3?

## Specific and substantive changes to the Guidance

**2.4** More significant changes have been made to a number of parts of the Guidance. In some cases the material has been reordered to flow more logically or to make it easier to locate.

In other cases new material has been introduced to the Guidance, having been published by the Commission in another format since the last edition of the GLA. The parts of the Guidance most altered in the proposed new edition are listed in this section of the consultation document, and have specific questions associated with them.

## Part 13: Information Exchange

- 2.5** Over the last few years, it has been increasingly evident that to maximise the efficient use of our resources we need to regularly share information about our compliance activities. Therefore, the Commission has updated this section providing more detail on the arrangements for managing and sharing knowledge and information between the Commission and licensing authorities. It builds on the information requirements mentioned in the now obsolete document '*Advice to licensing authorities on information exchange document with the Gambling Commission*', and has been updated for inclusion in the Guidance. For ease of reference, we have provided a list of data requirements that licensing authorities are required to send to the Commission.
- 2.6** We would be interested to hear whether stakeholders agree that the proposed paragraphs are necessary and whether they are sufficiently clear and informative to cover this issue.

### Consultation question

- Q2. Do you agree with the need for, and content of Part 13: Information Exchange and does it go into sufficient detail on this subject?

## Part 25: Clubs (previously titled Club gaming permits and club machine permits)

- 2.7** A number of changes have been made to part 25 of the Guidance. Over the last few years the Commission has provided a great deal of information via publication of frequently asked questions and advice documents, and has advised a number of licensing authorities on issues surrounding the type of gaming that may take place in clubs and matters to be considered when granting permits. Therefore, we have decided to incorporate relevant information that has been published concerning gambling in clubs, to build on the Guidance since it was last published. The section title has changed to reflect the expanded range of information it now contains on permitted activities in clubs.
- 2.8** We have provided clearer definitions of members' clubs, miners' welfare institute, and commercial clubs. Details on exempt gaming in clubs have been taken from the advice document '*Advice on gaming in clubs and alcohol licensed premises: Gambling Act 2005 (September 2008)*' to provide clarity and are reflected in the new paragraphs 25.11 – 25.22.
- 2.9** We have subsumed sections from the document '*Advice to licensing authorities on club gaming permits and club machine permits: Gambling Act 2005, Second edition (April 2011)*' to cover factors to be considered by licensing authorities when granting and monitoring club gaming permits as shown in new paragraphs 25.46 – 25.60. We have also added details from the advice document on the powers of both the licensing authorities and the Commission in respect of club premises.

### Consultation question

- Q3. Do you agree with the need for, and content of, Part 25: Clubs and does it go into sufficient detail on this subject?

## Part 26: Alcohol-licensed premises

- 2.10** A number of changes have been made to this part of the Guidance. The proposed paragraphs on exempt gaming in alcohol-licensed premises have been added to provide clarity on the definition and for the purpose of being consistent with other parts in the Guidance that refer to it. We have also added information on the Commission codes of practice in respect of exempt equal chance gaming, so that it is clearly stated within the Guidance rather than providing only a reference.
- 2.11** In the previous version of the Guidance, we omitted details of a licensing authority's ability to remove exemptions in relation to exempt gaming in alcohol licensed premises. This subject has been made clearer in paragraph 26.4 - 26.5 and new paragraphs 26.29 - 30 in relation to exempt gaming has been added. A paragraph has also been added on prohibited gaming.

### Consultation question

- Q4. Do you have any comments on the detail and inclusion of these new elements in Part 26: alcohol-licensed premises?

## Part 28: Non-commercial and private gaming and betting (previously titled Non-commercial gaming)

- 2.12** Over the past few years, the Commission has published a wide range of material on the complex issue of the rules governing non-commercial and private gaming and betting. The Commission received many queries about this subject, in particular about non-commercial 'casino nights' and 'race nights' and, in response to this, published the document *Advice on non-commercial and private gaming and betting (January 2010)*. This part of the Guidance has been enlarged so as to incorporate relevant information from this advice document with the aim of providing clarity and ease of reference on the subject matter.
- 2.13** The new section (paragraphs 28.11 – 28.14) on non-commercial equal chance gaming has been incorporated from guidance provided on the Licensing Authority Bulletin in March 2012. The Commission considers it will be more useful for it to be a permanent point of reference within the Guidance. We would be interested to hear whether stakeholders agree that the proposed paragraphs are necessary and whether they are sufficiently clear and informative to cover this issue.

### Consultation question

- Q5. Do you have any comments on the detail and inclusion of these new elements in Part 28: Non-commercial and private gaming and betting?

## Part 29: Poker (previously titled Permitted and exempt gaming in clubs and alcohol licensed premises)

- 2.14** The Commission has decided to incorporate existing advice and significantly edit part 29 so that licensing authorities have a central point of reference to relevant information on the subject. The title has been changed to Poker as that better reflects the content.
- 2.15** It mainly sets out details on the circumstances in which poker can be legally provided, for example as private gaming. Some of the detail in this area has been the subject of a number of questions from licensing authorities, which was followed by a range of advice documents published by the Commission. The aim is to provide clarity to licensing authorities on what they need to consider when granting permissions and after. We have therefore changed the status of the information and provided Guidance on this subject to inform and assist licensing authorities.

- 2.16** This section subsumes relevant information from the documents titled '*Advice on gaming in clubs and alcohol-licensed premises: Gambling Act 2005 (September 2008)*' and '*Advice to licensing authorities on club gaming permits and club machine permits: Gambling Act 2005, Second edition (April 2011)*'. Paragraphs 29.80 to 29.85 include information that the Commission provided on aspects of private gaming in the Licensing Authority Bulletin in March 2012.
- 2.17** We have also added new paragraphs at 29.17 - 19 in relation to the powers available to licensing authorities to remove exemption for exempt gaming in alcohol licensed premises.

### Consultation question

- Q6. Do you agree with the need for, and content of, Part 29: poker and does it go into sufficient detail on this subject?

### Part 34: Small society lotteries

- 2.18** The Commission has been made aware that some small society lotteries may be circumventing the requirement to apply for a society lottery operating licence from the Commission by instead obtaining two or more registrations with the same or different local authorities. We have addressed this issue in the form of information provided on the Licensing Authority Bulletin and consider it appropriate and useful for it to be included in the new edition of the Guidance. We would be interested to hear whether stakeholders agree that the proposed paragraphs are necessary and also whether they are sufficiently clear and informative to cover this issue.
- 2.19** The Commission has issued a number of other publications intended to offer advice on various aspects of running lotteries. These documents are now referenced within the Guidance to indicate where further information is available.

### Consultation question

- Q7. Do you have any comments on the detail and inclusion of this information in Part 34: Small society lotteries?

### Part 36: Compliance and enforcement

- 2.20** The respective roles of the Commission and of licensing authorities in the shared regulation of gambling have matured since the last edition of the Guidance was published in 2009. This is reflected in some narrative changes in the opening paragraphs of Part 36: compliance and enforcement.
- 2.21** We propose to incorporate a section on test purchasing and age verification in this part of the Guidance. Some of the details in this area have been the subject of a number of questions from licensing authorities and were addressed in an Advice Note published in May 2011. We have therefore changed the status of the information and provided guidance on this subject to inform and assist licensing authorities. We have also sought to make clear the need for a good relationship between the Commission and licensing authorities and their employees. This will assist both sides in carrying out their respective duties to ensure compliance with the regulatory regime for gambling.

### Consultation questions

- Q8. Do you have any comments on the detail and inclusion of this text in Part 36: Compliance and enforcement on the principles of shared regulation?

Q9 Do you have any comments on the detail and inclusion of the paragraphs in Part 36: Compliance and enforcement on test purchasing and age verification?

## Other issues and comments

- 2.22** This section has raised the more significant changes we have made to the Guidance. These have all been about making the Guidance more succinct and updating it where necessary. There are no key policy decisions that have been taken in these revisions to the Guidance.
- 2.23** The intent behind the Guidance is to advise and assist licensing authorities. The aim of this new 4<sup>th</sup> edition is to add relevant information from advice documents and other published documents issued by the Commission, which makes the Guidance a more up to date and usable document for licensing authorities to refer to.
- 2.24** We do recognise that there are a large number of small changes that have been made, and perhaps some other changes that could usefully be made. We would therefore welcome all of your comments and views on any further improvements we could make to this new edition of the Guidance.

## Consultation question

Q10 Do you have any further opinions, comments or views on the changes we have made to this new edition of the Guidance? Are there any further changes or amendments you would like us to consider?

## 3 Conclusion

- 3.1** In Annex A following this document we have published the proposed 4<sup>th</sup> edition of the Guidance with the changes from the current 3<sup>rd</sup> edition marked up. It is suggested that respondents answer the questions relating to the substantive changes set out in Part 2 first before reading through the proposed 4<sup>th</sup> edition and making any additional comments on other changes and add those comments in their answer to the final question in Part 2.

## 4 Responding to this consultation

- 4.1** The Commission is inviting comments on the proposed scheme and would prefer respondents to complete the responses template provided and send it by email to: [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk). Further information and assistance is available from the Commission's consultation co-ordinator at the same email address. If you are not able to use the template provided, please indicate clearly the questions or issues to which your comments refer.
- 4.2** Alternatively, responses can be sent by post to:  
Consultation coordinator  
Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP
- 4.3** The closing date for receipt of responses by the Commission is 6 July 2012.
- 4.4** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.

- 4.5** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 4.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 4.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments/agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.
- 4.8** All non-confidential responses will be published on our website. We will take full account of the responses when coming to a final view on a recommendation for future data collection. We will publish our response to submissions received as part of our explanation of the final view we have reached.

Gambling Commission April 2012

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## Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Copies of this document are available in alternative formats on request.

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**CON 12/3**