

Committee Manager: Carrie O'Connor (Ext 37614)

20 September 2017

## LICENSING COMMITTEE

A meeting of the Committee will be held in Committee Room 1 (the Pink Room) at the Arun Civic Centre, Littlehampton on **Friday 29 September 2017 at 9.30 a.m.** and you are requested to attend.

Members : Councillors Cooper, (Chairman), Wheal (Vice-Chairman), Mrs Bower, Cates, Charles, Clayden, Mrs Daniells, Dillon, Edwards, Hitchins, Mrs Oakley, Oliver-Redgate, Patel, Purchase and Warren.

## AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATIONS OF INTEREST

Members and Officers are reminded to make any declaration of personal and/or prejudicial/pecuniary interests that they may have in relation to items on this agenda.

You should declare your interest by stating:

- a) the item you have the interest in
- b) whether it is a personal interest and the nature of the interest
- c) whether it is also a prejudicial/pecuniary interest
- d) if it is a prejudicial/pecuniary interest, whether you will be exercising your right to speak under the normal procedure rules applicable to the Committee

You then need to re-declare your prejudicial/pecuniary interest at the commencement of the item or when the interest becomes apparent.

3 MINUTES

To approve as a correct record the Minutes of the meeting held on 17 March 2017 (attached).

4 ITEMS NOT ON THE AGENDA WHICH THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

5 LICENSING SUBCOMMITTEE - 8 SEPTEMBER 2017 AND 28 JULY 2017

To receive and note the Minutes of the meetings of the Licensing Subcommittee held on 8 September and 28 July 2017

6 REVIEW OF CHANGES TO LICENSING COMMITTEE TERMS OF REFERENCE & DELEGATIONS

As part of the 2020 Vision programme seeking to make the Council smaller but more effective, in September 2016 the then Licensing & Enforcement Committee recommended to Full Council to make changes to the terms of reference of the committee and to delegations. These were subsequently agreed by Full Council. The resolution included a review of the changes after a year. This report reviews the changes and their effect and seeks Member support to retain the changes made.

7 GAMBLING ACT 2005 STATEMENT OF LICENSING PRINCIPLES - POLICY REVIEW

The Statement of Licensing Principles (Gambling Act 2005) is required to be reviewed and amended if necessary, every three years.

The amended policy document is submitted to the Licensing Committee for information and direction to Full Council for consideration of approval.

Note : \*Indicates report is attached for Members of the Licensing Committee only and the press (excluding exempt items). Copies of reports can be obtained on request from the Committee Manager or accessed via [www.arun.gov.uk](http://www.arun.gov.uk)

Note : Members are reminded that if they have any detailed questions would they please inform the Chairman and/or relevant officer in advance of the meeting.

*Subject to approval at the next Committee meeting*

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LICENSING COMMITTEE

17 March 2017 at 9.30 a.m.

Present : Councillors Dingemans (Chairman), Patel (Vice-Chairman), Cates, Charles, Clayden, Dillon, Hitchins, Mrs Oakley, Oliver-Redgate, Mrs Pendleton and Wheal

502. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Cooper, Mrs Daniells, Purchase and Warren.

503. DECLARATIONS OF INTEREST

The Monitoring Officer has advised Members of interim arrangements to follow when making declarations of interest. They have been advised that for the reasons explained below, they should make their declarations on the same basis as the former Code of Conduct using the descriptions of Personal and Prejudicial Interests.

Reasons

- The Council has adopted the government's example for a new local code of conduct, but new policies and procedures relating to the new local code are yet to be considered and adopted.
- Members have not yet been trained on the provisions of the new local code of conduct.
- The definition of Pecuniary Interests is narrower than the definition of Prejudicial Interests, so by declaring a matter as a Prejudicial Interest, that will cover the requirement to declare a Pecuniary Interest in the same matter.

Where a Member declares a "Prejudicial Interest" this will, in the interests of clarity for the public, be recorded in the Minutes as a Prejudicial and Pecuniary Interest.

There were no declarations of interest made.

504. MINUTES

The Minutes of the meeting held on 20 January 2017 were approved by the Committee as a correct record and signed by the Chairman.

*Subject to approval at the next Committee meeting*

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Licensing Committee – 17.03.17.

505. LICENSING SUBCOMMITTEE – 17 FEBRUARY 2017

The Committee received and noted the meeting of the Licensing Subcommittee held on 17 February 2017.

506. REVIEW OF THE FARE STRUCTURE FOR HACKNEY CARRIAGES 2017/18

The Committee received a report from the Licensing Officer which sought Members' approval to set the fare structure for hackney carriages for the period 1 April 2017 to 31 March 2018.

At the Taxi Liaison meeting held in January 2017, the drivers had unanimously agreed that the fare structure should remain the same as the previous year and that had been duly advertised, as required by legislation. No representations had been received following that advertising period. It had also been agreed that the fares should be increased if the price of diesel fuel reached a local average of £1.50 per litre for a period of one month. The fare structure was therefore proposed as follows:-

Flag drop	£2.50
Increase on first mile	£0.10 = £4.30
Increase on subsequent miles	£0.10 = £2.30
All other charges to remain the same	

Following a brief discussion, the Committee

**RESOLVED**

That the fare structure as advertised be agreed, to come into effect on 1 April 2017.

507. REVIEW OF THE FEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES AFTER CONSULTATION

The Licensing Officer presented this report which provided the detail of the review of fees for hackney carriage and private hire licences that had been undertaken for the period from 1 April 2017 to 31 March 2018. The proposed fees had been advertised as required by legislation and no representations had been received.

The Licensing Manager appraised the Committee of the rationale and approach taken in setting the fees, particularly as some had gone down, and further stated that the charges had to ensure that a sustainable service could be provided whilst at the same time not making a profit. More efficient working had been identified in some areas and that had provided an opportunity to cut some costs to the drivers.

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Following consideration, the Committee

RESOLVED

That the fees set at out Section 2 of the report for 2017/18 be agreed, to take effect from 1 April 2017.

*(During the course of consideration of the following application, Councillor Oliver-Redgate declared a personal interest as a taxi driver in Worthing and in London in the past. He remained in the meeting and took part in the debate and vote.)*

508. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY & HANDBOOK

The Licensing Manager advised the Committee that this report sought to provide a single point of reference document for the Council, courts, trade and prospective new applicants in respect of Hackney Carriage and Private Hire licensing. She paid tribute to the hard work of officers in enabling her to bring forward this Policy for Members' consideration, together with the contributions made by Councillor Dingemans and Councillor Mrs Oakley. Members were also advised that Legal had looked at the policy and were happy with its content.

In presenting the Policy, the Licensing Manager also sought Members' agreement to insert an additional condition on the driver's renewal of licence to require a driver to attend additional training, if required, to ensure that all drivers were adequately trained.

The Licensing Manager highlighted the following:-

- It was hoped that the Policy would provide more effective powers to enable officers to deal with matters that arose more efficiently and Members were further advised that the penalty point system had been reintroduced, which would be more cost effective and provide swift resolutions to a number of issues.
- Discussions with Guide Dog organisations had resulted in the inclusion of a section specifically relating to dogs in taxis and, unless a driver had an exemption, all drivers were required to accept dogs.
- Private hire operators would be required to be based in the District to better manage and monitor their operation.
- An explanation was given to the consultation response from Littlehampton Town Council with regard to the issuing of licences to applicants with a history. The law would not look favourably on a policy that categorically did not allow cases to be dealt with on an individual basis as applicants should be

*Subject to approval at the next Committee meeting*

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Licensing Committee – 17.03.17.

given the opportunity to present mitigation to Members for their consideration prior to approving or refusing an application.

The Committee participated in a detailed debate around a number of issues, which were responded to at the meeting by the Licensing Manager, and related to:-

Wheelchair access; CCTV in vehicles; age of vehicles; monitoring and enforcement; advertising of consumers' rights in vehicles; and emergency access in MPVs (Multi Person Vehicles)

In addition the Licensing Manager gave an undertaking to amend and clarify under Part B, paragraph 16, the timescale applicable for applicants if they spent 6 continuous months or more overseas to provide evidence of a criminal record check etc.

The Chairman thanked officers for producing a comprehensive policy and acknowledged the hard work that had gone into it.

The Committee then

**RECOMMEND TO FULL COUNCIL**

That the Hackney Carriage and Private Hire Licensing Policy and Handbook, as amended, be approved.

(The meeting concluded at 10.22 a.m.)

Licensing Subcommittee

8 September 2017 at 9.30 am

Present:- Councillors Cooper, Mrs Oakley and Wheal

Licensing Officer	Glenn James
Assistant Licensing Officer	Andrew Burrows
Solicitor	Delwyn Jones

Applicant

1. Election of Chairman

Prior to commencement of the meeting it had been agreed that Councillor Cooper would chair the meeting.

2. Declarations of Interest

There were no Declarations of Interest made.

3. Application for a Hackney Carriage/Private Hire Driver Licence (Exempt – Paragraph 1 – Information Relating to Individuals)

The Licensing Officer presented this report which set out the detail of an application for a hackney carriage/private hire driver licence from an applicant who had not been able to provide appropriate documentation, namely a certificate of good conduct which was required by policy, and the behaviour of the applicant towards an officer. The application process had been halted as it was felt appropriate that the Subcommittee be requested to determine whether it should proceed.

The applicant was then requested to outline his case, following which he responded to questions from Members and officers. The Chairman stated that the Subcommittee was understanding of his history but made it quite clear that there could be no toleration of verbal outbursts to officers or the public and that it had to duty to establish whether he (the applicant) could be deemed a “Fit and Proper” person under taxi legislation.

All parties left the room to enable the Subcommittee to consider the matter. Following discussion, the Solicitor was recalled to provide advice to Members with regard to whether the applicant could be asked to provide an alternative attestation as to his good character. All parties were then recalled and the applicant confirmed that he would be prepared to provide the name and address of persons who would vouch for his character.

All parties then once more left the room and, following further consideration, the Subcommittee recalled the Solicitor for clarification about

references. Having received that clarification, the Solicitor left the meeting and the Subcommittee then

RESOLVED

That the applicant be allowed to continue with the application process, subject to a verifiable name and address of a person of standing within the community being given to officers so they can take up references and that he sign a written declaration as detailed in the report.

Reason for the Decision

To ensure that the applicant is a Fit and Proper person as required by legislation.

(The hearing concluded at 10.30 am)

Signed ..... Chairman

Licensing Subcommittee28 July 2017 at 9.35 am

Present:- Councillors Cates, Cooper and Wheal

Assistant Licensing Officer	Andrew Burrows
Licensing Team Manager	Sarah Meeten
Solicitor	Delwyn Jones
Applicant	Viktoriya Yovkova

1. Election of Chairman

Prior to commencement of the meeting it had been agreed that Councillor Cooper would chair the meeting.

2. Declarations of Interest

There were no Declarations of Interest made.

3. Application for a Street Trading Consent in London Road, Bognor Regis

The Assistant Licensing Officer presented this report which set out the detail of an application for a street trading consent in London Road, Bognor Regis, to sell hot corn and popcorn between the hours Monday to Sunday 10.00 to 17.00 hours. As representations had been received from the Council's Economic Regeneration Team and Bognor Regis Town Centre Management the application had come before Members to determine.

In presenting her case, the applicant stated that she would increase her public liability insurance to £10m. In addition, she had been in discussion with the Town Centre Manager and would operate in consultation with him on market days in London Road.

Following questions from Members, which were responded to at the meeting, all parties left the room to enable the Subcommittee to consider the application.

Having considered the application, all parties were recalled and advised that the Subcommittee

RESOLVED

That the consent be issued subject to the times and days specified in the application and

- i. The position of the stall being specified by officers
- ii. The articles to be sold by the vendors to be hot corn and popcorn
- iii. Stall to be inspected by a Food Safety Officer and to comply with food hygiene and health and safety standards
- iv. Standard conditions for street traders, attached as appendix 5 to the report, be applied to the consent.

Reason for the Decision

The applicant had given an assurance that she would liaise with the Town Centre Manager when market events were scheduled to ensure her stall would cause no disruption.

(The hearing concluded at 9.55 am)

Signed ..... Chairman

ARUN DISTRICT COUNCIL

LICENSING COMMITTEE – 29 SEPTEMBER 2017

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Decision Paper

Subject : Review of Changes to Licensing Committee Terms of Reference & Delegations

Report by : Nat Slade, Group Head of Technical Services Report date: 18/09/17

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EXECUTIVE SUMMARY

As part of the 2020 Vision programme seeking to make the Council smaller but more effective, in September 2016 the then Licensing & Enforcement Committee recommended to Full Council to make changes to the terms of reference of the committee and to delegations. These were subsequently agreed by Full Council. The resolution included a review of the changes after a year. This report reviews the changes and their effect and seeks Member support to retain the changes made.

RECOMMENDATIONS

Members are requested to resolve to: Retain the changes made in September 2016 to the terms of reference and delegations (Option1).

1.0 INTRODUCTION

- 1.1 As part of the Vision programme seeking to make the Council smaller but more effective the, on 02 September 2016 the then Licensing & Enforcement Committee resolved to recommended to Full Council to make changes to the terms of reference of the committee and to delegations. This was the culmination of months of research including work by external solicitors on the constitution and enforcement policy.
- 1.2 The changes which were introduced are summarized as follows. The name of the committee was changed to Licensing Committee. The frequency with which the full committee meets was changed from monthly to quarterly.
- 1.3 The scope of work of the committee also changed. It had previously determined policy matters, determined some individual licensing cases (not Licensing Act

decisions which were dealt with by sub-committee) and individual enforcement decisions including on non-licensing Environmental Health cases.

- 1.4 This changed to the full committee determining policy matters, with individual licensing cases being determined by the sub-committee of three Members which meet when needed. Enforcement decisions are now determined by the Enforcement Review Panel which comprises managers from within Environmental Health and the Council's solicitor.
- 1.5 The changes also included a new way of setting out delegations to officers within the constitution which streamlined the constitution, replacing 9 pages of prescriptive delegations which became outdated, with five paragraphs of more general delegation with the detail being maintained outside the constitution where it is easier to quickly update.
- 1.6 Over the past 12 months whilst the revised terms of reference and delegations have taken place, the full committee has met on three occasions: January, March and September 2017. The meeting scheduled for June was cancelled as there was no business to determine. At those meetings the committee has considered and adopted a total of five policy matters: the caravan site licensing determination policy, approved the taxi fares, approved the taxi fees and adopted a taxi policy. In this meeting the committee will consider adopting a gambling licensing policy. In the 12 months before the changes the Licensing & Enforcement committee also determined five policy matters.
- 1.7 During the last 12 months the sub-committee has met on five occasions to hear individual cases. The membership of those licensing sub-committee meetings has been shared amongst a number of members of the full committee. The sub-committee has determined a total of five licensing cases: three taxi licensing cases, one licensing act case and one street trading consent case. In the 12 months before the changes there were 16 cases (8 licensing act, 3 taxi, 2 house-house collections, 1 street trading, 2 gaming licences). The main difference is that there has been a reduction from eight to one in the number of licensing act cases going before the subcommittee. This has nothing to do with the changes which were made in September 2016.
- 1.8 During the past 12 months the Enforcement Review Panel (ERP) has consider seven cases which the officer considered would be appropriate to prosecute. These consisted of 2 housing cases, 2 food safety cases, 1 drainage and toilet facilities case, 1 noise case and 1 odour nuisance case. Members are notified by email if a prosecution is authorized. More recently a secure section of the Members' intranet has been set up where ERP decision records are uploaded. In the 12 months before the changes, four cases were considered by the ERP, and then by the Licensing and Enforcement Committee and then by the Individual Cabinet Member who ultimately made the decisions.

- 1.9 The changes sought to achieve a number of benefits: (i) to operate more efficiently and allowing savings to be made, (ii) allow the council to make decisions on whether to take enforcement action (e.g. prosecutions) more quickly, (iii) ensure that hearings for individual licensing cases were less intimidating and therefore fairer for the person subject to the decision.
- 1.10 Taking each in turn. (i) the changes to delegations regarding the authorization of enforcement have reduced the number of reports which needed to be produced by 10 in the previous 12 months. This is part of a package of measures which has enabled savings to be made by way of a restructure which will be completed by 1<sup>st</sup> April 2018 and reduce net staff costs by 10% across Environmental Health.
- 1.11 In relation to (ii) allow the council to make decisions on whether to take enforcement action (e.g. prosecutions) more quickly: the length of time it now takes to make enforcement decisions has been reduced significantly. It now takes 3 working days from completion of a report prior to a monthly scheduled meeting of the ERP making a decision. Previously the quickest a decision could be made, if all meetings were timed optimally, was 5 weeks.
- 1.12 The model used in the simplified section of officer delegations has since been used as a model and rolled out across the whole Council making the changes to the constitution associated with the staff restructure a more simple task.
- 1.13 The final objective (iii) to ensure that hearings for individual licensing cases were less intimidating and therefore fairer for the person subject to the decision. Although this has not been surveyed, it is considered materially fairer to have a licence applicant go before a panel of three Members, rather than a full committee of between 10 and 15 Members, thus reducing the risk of potential legal challenge to any decisions reached.

### **Options:**

Resolve to:

- (1) Retain the changes made in September 2016 to the terms of reference and delegations.
- (2) Recommend to Full Council amendments to the changes.

### **Background Papers:**

Report to Licensing & Enforcement Committee 02 September 2016 (Item 7).

<http://www1.arun.gov.uk/PublicViewer/Tempfiles/8a86de2d0dc8471.pdf>

Minutes of the Licensing & Enforcement Committee meeting 02 September 2016

<http://www1.arun.gov.uk/PublicViewer/Tempfiles/95e540220e01424.pdf>

Minute of the Full Council Meeting on 14 September 2016 with resolution (pages 179-201)

<http://www1.arun.gov.uk/PublicViewer/Tempfiles/4a0229eb2e2444d.pdf>

**Contact:** Nat Slade, Group Head of Technical Services ext.: 37683

ARUN DISTRICT COUNCIL

LICENSING COMMITTEE – 29<sup>TH</sup> September 2017

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Recommendation Paper

Subject : Gambling Act 2005 Statement of Licensing Principles – Policy Review.

Report by : Andrew Burrows Report date: 14<sup>th</sup> August 2017

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EXECUTIVE SUMMARY

The Statement of Licensing Principles (Gambling Act 2005) is required to be reviewed and amended if necessary, every three years.

The amended policy document is submitted to the Licensing Committee for information and direction to Full Council for consideration of approval.

RECOMMENDATIONS

Members are requested to recommend to Full Council that the Gambling Act 2005 Statement of Licensing Principles 2017 be adopted.

**1.0 INTRODUCTION**

- 1.1 On 1st September 2007 the Gambling Act 2005 (the Act) came fully into force. As a Licensing Authority, Arun District Council is required by Section 349 of the Act, before each successive period of three years, to prepare a statement of licensing principles and publish that statement.
- 1.2 Consultation on the revised Statement of Licensing Principles took place over a six week period between the 12<sup>th</sup> June and 23<sup>rd</sup> July 2017. Those consulted included responsible authorities, the Gambling Industry, community groups and the community at large through our website.
- 1.3 The proposed Statement of Licensing Principles 2017 seeks to replace the Statement of Licensing principles 2015. The main change is that of an additional requirement added in Part B at item 10 – Local Risk Assessments.

## 2.0 REPRESENTATIONS

- 2.1 Two representations were received during the consultation period. These were from:
- Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB), and
  - the Littlehampton Town Council.
- 2.2 The representation from Gosschalks on behalf of the ABB is attached and marked as Appendix 2. To assist members, comments and suggested changes to the policy document have been consolidated and reproduced below:

**Comments and suggested changes – Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). Reproduced from pages 4 and 6 of their consultation letter dated 14 June 2017.**

It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with.

The Association of British Bookmakers (ABB) would be concerned should any local authority seek to prescribe the form of an operator’s risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes. Section 10 states that licence holders should have regard to places of worship and other gambling premises when conducting the risk assessment. The Statement of Gambling Licensing Principles correctly identifies that moral objections to gambling are an irrelevant consideration but it is difficult to see how a place of worship can be a relevant consideration when determining whether or not the operation of a gambling premise is reasonably consistent with the licensing objectives. We respectfully submit that the references to places of worship and other gambling premises (demand is similarly an irrelevant issue) should be removed from the list of matters to be taken into account.

In addition, the Statement of Gambling Licensing Principles indicates that operators should take notice of the socio-economic make up of an area when preparing a local risk assessment. The relevant affluence of an area can have no bearing whatsoever on whether or not the operation of premises would be reasonably consistent with the licensing objectives unless the licensing authority has pre-determined that persons of a particular income level are more likely to commit crime or be vulnerable. We are certain that this is not the case. Accordingly, this reference should be removed.

Paragraph “(iv) Location” within part B of the Statement of Gambling Licensing Principles causes the ABB concern. This suggests that the licensing authority may adopt a policy such that there are certain areas where gambling premises should not be located. Such a policy may be unlawful and is certainly contrary to the overriding principle that the licensing authority must “aim to permit” the use of

premises for gambling when considering an application. We respectfully submit that this reference to a potential policy where gambling premises should not be located should be removed. Following recent changes to the planning legislation that requires that betting office use must be specified then issues of location may be dealt with under the planning legislation rather than through licensing.

The Statement of Gambling Licensing Principles would be assisted by an acknowledgement that the starting point for any application is that it will be granted subject to the mandatory and default conditions only. These conditions are usually sufficient to ensure operation that is consistent with the licensing objectives and should only be supplemented where there is clear evidence of a risk to the licensing objectives that requires that additional conditions be imposed. The evidential basis for additional conditions should be made clear and the statement amended to remove any suggestion that conditions will be added where there is a “perceived need” as stated in the draft statement of Gambling Licensing Principles.

- 2.3 The representation from the Littlehampton Town Council was not considered relevant but is attached and marked as Appendix 3. This document includes a reply to the representation.

### **3.0 LEGISLATION**

- 3.1 Gambling Act 2005 – Section 349 – Three-year licensing policy

The relevant legislation directing a licensing authority to prepare, review and publish a statement of licensing principles before each successive three year period is attached and marked Appendix 4.

- 3.2 Gambling Act 2005 – Section 212 – Fees

The relevant legislation prescribing how Gambling Act fees are determined is attached and marked Appendix 5.

- 3.3 Gambling Commission’s Guidance – Appendix G – Licensing Authority Delegations

Guidance to Licensing Authorities as to the delegations permitted under the Gambling Act 2005, applicable to England and Wales only, attached and marked Appendix 6.

#### **4.0 Options**

- 4.1 To recommend to Full Council the adoption of the Statement of Licensing Principles 2017.
- 4.2 To amend the policy before recommending it for adoption by Full Council.
- 4.3 To refuse to recommend the adoption of the Statement of Licensing Principles 2017.

#### **5.0 Background Papers and Appendices**

##### **Gambling Act 2005 (as amended)**

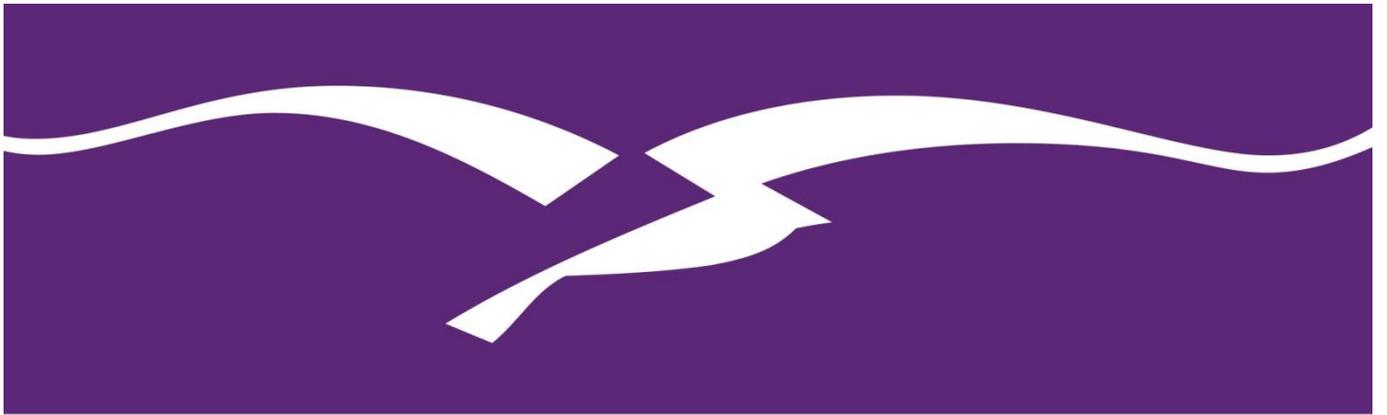
**Gambling Commissions Guidance to Licensing Authorities (GLA) 5th edition September 2015. Parts 17, 18 & 19, updated September 2016.**

**Arun District Council's Statement of Licensing Principles 2015.**

##### **Appendices:**

- 1. draft Statement of Licensing Principles 2017**
- 2. representation on behalf of the Association of British Bookmakers**
- 3. representation on behalf of the Littlehampton Town Council**
- 4. Section 349 Gambling Act 2005**
- 5. Section 212 Gambling Act 2005**
- 6. Gambling Commission Guidance to Licensing Authorities – Appendix G**

**Contact:** Andy Burrows, Assistant Licensing Officer, ext 37749



# Statement of Gambling Licensing Principles 2017



June 2017



## ARUN DISTRICT COUNCIL STATEMENT OF GAMBLING LICENSING PRINCIPLES

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*\*NB: The page numbers shown on this page may be incorrect whilst this document is in draft and/or editing stage. These will be checked and corrected before the final version is published.*

*This Statement of Licensing Principles was approved by **Arun District Council** on ?????*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published in September 2015. Parts 17, 18 and 19 of the Guidance updated September 2016.*

## PART A

### 1. The Licensing Objectives

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

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

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

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy

### 2. Introduction

Arun District Council is situated in the County of West Sussex, a county which contains seven District Councils. (Chichester, Arun, Worthing, Adur, Horsham, Mid Sussex and Crawley). The Council area has a population of 155,732 (2015 Office of National Statistics) making it the largest in the County in terms of population. In terms of area it covers approximately 85 square miles, making it relatively small in comparison with two of its neighbouring Districts (Chichester and Horsham) but relatively large in comparison with its other neighbouring Districts (Worthing and Adur).

The Arun District is a mix of urban and rural areas, with centres of population being the towns of Arundel, Bognor Regis and Littlehampton. The latter two towns have expanded into neighbouring parishes, forming substantial urban conurbations. The Eastern end of the District, including Littlehampton, forms part of the Brighton, Worthing and Littlehampton conurbation, which is calculated to be the 12<sup>th</sup> largest in England. Part of the Northern area of the District is within the South Downs National Park, whilst the Southern part of the District is coastal. Bognor Regis and Littlehampton and many of the coastal parishes are popular visitor destinations, as is Arundel and other parts of the District.

Licensing authorities are required by the Gambling Act 2005 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 re-consulted upon. The statement must be then re-published.

As required by Section 349 of the Gambling Act 2005, Arun District Council consulted the following businesses and authorities prior to the publication of their Licensing Policy Statement:

- Sussex Police
- West Sussex Local Safeguarding Children’s Board
- West Sussex Trading Standards
- Local Safeguarding Children’s Board
- The British Amusement Catering Trading Association (BACTA)
- Association of British Bookmakers
- The proprietors of Harbour Park, Littlehampton.
- The proprietors of Lordsdale Estates (Cassino), Bognor Regis and Littlehampton.
- Bognor Regis Town Council
- Littlehampton Town Council
- Arundel Town Council

- The Safer Arun Partnership
- Parish councils with sites in their parishes which are licensed to provide gambling, namely the parishes of Pagham, Rustington, Felpham, Bersted and Walberton.
- Southdown Parks Authority.

Our consultation took place over a 6 week period between 12<sup>th</sup> June 2017 and 23<sup>rd</sup> July 2017.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

The Licensing Team  
Arun District Council  
Civic Centre  
Maltravers Road  
Littlehampton, BN17 5LF

[Licensing@arun.gov.uk](mailto:Licensing@arun.gov.uk)

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

### 3. Declaration

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

### 4. Responsible Authorities

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, that a body is appointed to consider child protection matters, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at [www.arun.gov.uk](http://www.arun.gov.uk).

### 5. Interested parties

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

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

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

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represent the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then advice should be sought from the Licensing Team at Arun District Council.

## **6. Exchange of Information**

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Information may be exchanged with other Licensing Authorities and Sussex Police.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

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.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
- Consistent: rules and standards will be implemented fairly and in a consistent manner;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted and implemented a risk-based inspection programme, based on;

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

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## 8. Licensing authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## 9. Returns and Information requirements

This summary is taken from the Gambling Commission guidance (5<sup>th</sup> Edition), page 68.

### Summary of information requirements

Licensing function	Event requiring information to be sent to Commission
<b>Premises licences and provisional statements</b>	Licensing authority has granted / rejected an application for a premises licence or provisional statement
	A premises licence has lapsed
	Licensing authority has granted or rejected an application to reinstate a premises licence
	Licensing authority has granted or rejected an application to transfer or vary a premises licence
	A review of a premises licence has been completed and a decision made
	A hearing is to be held where the Commission has made a representation
	A premises licence has been surrendered / revoked
<b>Club permits</b>	A club permit application has been granted / rejected
<b>Small society lottery registration</b>	Licensing authority registers a society to operate small lotteries
	Licensing authority cancels a society's registration to operate small lotteries
	Where a society has exceeded the permitted proceeds for small lotteries
<b>Issue of permits and temporary permissions</b>	Licensing authority returns
<b>Inspections and reviews</b>	Licensing authority returns

### Other licensing authority information requirements

- 13.13 Licensing authorities are also required to maintain the following information<sup>27</sup>:
- small society lotteries: licensing authorities are required to record details of the lottery on a register and to notify both the applicant and the Commission of this registration
  - club gaming permits: when they either grants or rejects an application for a club gaming permit they are required to inform both the applicant and the Commission.
- 13.14 There are a range of statutory application forms and notices that licensing authorities are required to use as part of their gambling licensing responsibilities. A summary list of these can be found in Appendix E. The forms and notices can be downloaded from the Commission's website.
- 13.15 Licensing authorities provide advice to those who make enquiries to them, about the legal responsibilities involved in providing premises or holding permits for gambling, whether or not they currently hold a licence or a permit.
- 13.16 Licensing authorities should feel free to signpost enquiries relating to operating or personal licences to the Commission.

<sup>27</sup> Schedule 11, Part 5, para 44 of the Gambling Act 2005

**An annual return is required to be submitted to the Gambling Commission in May. This return covers the period 1<sup>st</sup> April – 31<sup>st</sup> March each year.**

## PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

### 1. General Principles

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

#### (i) Decision-making

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

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

**(ii) Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. The licensing authority will pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority." The licensing authority will usually require that where any partitions are used to separate one premises from another, the partitions should be substantial and fixed in such a manner that they cannot be readily moved.

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

- Customers should be able to participate in the activity names on the premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

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

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

**The Gambling Commission's relevant access provisions for each premises type are reproduced below:**

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

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

### **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Tracks**

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

### **Bingo Premises**

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

## Family Entertainment Centre

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

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

### (iii) Premises "ready for gambling"

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

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

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

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

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

### (iv) Location:

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

### (v) Planning:

The licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

The Gambling Commission Guidance to Licensing Authorities includes the following: 7.58 – "In determining applications the licensing authority should not take into consideration matters which are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal."

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance: 7.65 – "When dealing with a premises licence

application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control and building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

**(vi) Duplication with other regulatory regimes:**

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible.

**Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission’s Guidance to Licensing Authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors so as to make that distinction.

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

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. This licensing authority will consider this licensing objective on a case by case basis.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

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

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industry Authority (SIA) licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## 2. Adult Gaming Centres

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

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

- Proof of age schemes, including the recording of all age verification checks conducted
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Restricted entry systems.

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

## 3. (Licensed) Family Entertainment Centres:

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

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

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

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

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

## 4. Casinos

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

## 5. Bingo premises

This licensing authority notes that the Gambling Commission's Guidance states: 18.5 "Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises."

This authority also notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises. However they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## 6. Betting premises

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

## 7. Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

- Proof of age schemes, including the recording of all age verification checks conducted
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

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

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

This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).

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

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.46).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas (such as betting rings) must be indicated on the plan.

### **8. Travelling Fairs**

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

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

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

### **9. Provisional Statements**

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

## 10. Local Risk Assessments

From 6 April 2016 premises licence holders **must** conduct a local risk assessment for each of their current premises. This applies to:

- adult gaming centres
- family entertainment centres
- non-remote betting
- non-remote bingo
- non-remote casinos
- remote betting intermediary (trading room only).

They will also be required to conduct or update a risk assessment when:

- applying for a new premises licence
- applying for a variation to a premises licence
- changes in the local environment or their own premises warrant a risk assessment to be conducted again.

What we expect:

When conducting local risk assessments, Licence holders must take into account the relevant matters identified in the licensing authority's statement of licensing policy.

Licence holders should have regard to their local area profile, taking into account their proximity to:

- Schools, Colleges, Youth Centres etc. with reference to the potential risk of under-age gambling, including:
  - Pupil Referral Unit, the Flintstone Centre, East Street, Littlehampton.
- Hostels or Support Services for vulnerable persons, such as those with addiction issues or who are homeless. It has been identified that there is a greater risk of problem gambling amongst these groups. Local services include:
  - Bedale Centre, Glencathara Road, Bognor Regis
  - Dove Lodge, Beach Road, Littlehampton
  - Pepperville House, Fort Road East, Littlehampton
  - Clockwalk Project, High Street, Bognor Regis; and
  - Glenlogie, Clarence Road, Bognor Regis.
- Places of worship; and
- Other gambling premises.
- Any other premises identified as being relevant, especially those that attract children or vulnerable adults.

They should also take notice of:

- Any known issues locally with problem gambling.
- The surrounding Night Time Economy and any possible interaction with gambling premises.
- The Socio-Economic makeup of the area, and
- The number of and the different types of gambling premises in the local area.

We expect the risk assessment to be structured in a manner that offers sufficient assurance that a premise has suitable controls and procedures in place. These controls should reflect the level of risk within their particular area, which will be determined by local circumstances.

The risk assessment should take into account the risks presented by the local landscape, such as the premises' exposure to particular vulnerable groups. A LA would be expected to challenge an operator's risk assessment where it can be evidenced that there are local risks that the operator has failed to take into consideration.

The aim of this requirement is to enable operators and LA's to engage in constructive dialogue at an early stage, reducing the likelihood of costly enforcement action at a later date.

Whilst there is no statutory requirement for licensees to share their risk assessments with responsible authorities or interested parties, ordinary code 10.1.2 states that licensees should share their risk assessment with licensing authorities on request as best practice. We therefore consider it appropriate for operators to hold premises risks assessments on premises. Doing so can also save considerable time and expense, as well as increasing the confidence of those agencies as to the operator's awareness of their obligations.

### **Background to this requirement**

Local licensing authorities (LA's) are required, under Section 153 of the Gambling Act 2005, to aim to permit the use of premises for gambling; as long as they consider the provision of gambling to be in accordance with the codes of practice issued by the Commission, Guidance to Licensing Authorities (GLA), and reasonably consistent with the licensing objectives and the authority's own statement of licensing policy.

As a means of assisting us in determining whether the provision of gambling facilities at premises will be, and will remain, consistent with the licensing objectives, we consider that premises licence holders should have policies and procedures in place to mitigate the local risks to the licensing objectives arising from the provision of gambling at their premises.

Following a review of the social responsibility elements of the Licence conditions and codes of practice (LCCP), the Gambling Commission introduced a social responsibility code (SR code 10.1.1), requiring operators to conduct local risk assessments of their premises to demonstrate how they aim to address the local risks to the licensing objectives.

## 11. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

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

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

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

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review
- the Gambling Commission
- any person who made representations

- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART C Permits / Temporary & Occasional Use Notice

### 1. Unlicensed Family Entertainment Centre gaming machine permits.

Paragraph 7, Schedule 10 of the Gambling Act 2005 states that the licensing authority may prepare a statement of principles that they propose to apply under Schedule 10 (Family Entertainment Centre Gaming Machine Permits). This statement contains such principles.

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may include a *statement of principles* that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant.

Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed family entertainment centre, and if the chief officer of police has been consulted on the application. Licensing authorities might wish to consider asking applications to demonstrate:

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

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

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

### 2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines

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

The licensing authority will need to satisfy itself that the premises meet the criteria set out in the Act, namely:

- that the applicant holds an on-premises alcohol licence, and
- the premises contains a bar at which alcohol is served for consumption on the premises, and
- there is no condition on the licence requiring that alcohol is only served with food.

The authority is aware of the explanatory note to the Act which says: "Premises such as restaurants which do not have a bar for serving drinks to customers will fall outside of the scope of the premises to which sections 279 and 284 (of the Act) apply."

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

### Permit: Three or more machines

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

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### 3. Prize Gaming Permits

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming

is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;

- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### 4. Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to offer equal chance gaming and games of chance as set-out in regulations made pursuant to the Act. Such a permit will also enable the premises to provide gaming machines in those categories specified in regulations made pursuant to the Act.

Members Clubs and Miners' Welfare Institutes and Commercial Clubs, may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines in those categories specified in regulations made pursuant to the Act.

The Act states: "Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations." A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

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
- e) an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure."

"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## 5. Temporary Use Notices

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

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## 6. Occasional Use Notices:

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

## PART D

### Fees

This Licensing Authority will set fees in accordance with the provisions of the Gambling Act 2005, having regard to any guidance issued by the Secretary of State.

Fees will be reviewed from time to time and published on the Authorities' website.

Comments and suggested changes – Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). Reproduced from pages 4 and 6 of their consultation letter dated 14 June 2017.

It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with.

The Association of British Bookmakers (ABB) would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

Section 10 states that licence holders should have regard to places of worship and other gambling premises when conducting the risk assessment. The Statement of Gambling Licensing Principles correctly identifies that moral objections to gambling are an irrelevant consideration but it is difficult to see how a place of worship can be a relevant consideration when determining whether or not the operation of a gambling premise is reasonably consistent with the licensing objectives. We respectfully submit that the references to places of worship and other gambling premises (demand is similarly an irrelevant issue) should be removed from the list of matters to be taken into account.

In addition, the Statement of Gambling Licensing Principles indicates that operators should take notice of the socio-economic make up of an area when preparing a local risk assessment. The relevant affluence of an area can have no bearing whatsoever on whether or not the operation of premises would be reasonably consistent with the licensing objectives unless the licensing authority has pre-determined that persons of a particular income level are more likely to commit crime or be vulnerable. We are certain that this is not the case. Accordingly, this reference should be removed.

Paragraph "(iv) Location" within part B of the Statement of Gambling Licensing Principles causes the ABB concern. This suggests that the licensing authority may adopt a policy such that there are certain areas where gambling premises should not be located. Such a policy may be unlawful and is certainly contrary to the overriding principle that the licensing authority must "aim to permit" the use of premises for gambling when considering an application. We respectfully submit that this reference to a potential policy where gambling premises should not be located should be removed. Following recent changes to the planning legislation that requires that betting office use must be specified then issues of location may be dealt with under the planning legislation rather than through licensing.

The Statement of Gambling Licensing Principles would be assisted by an acknowledgement that the starting point for any application is that it will be granted subject to the mandatory and default conditions only. These conditions are usually sufficient to ensure operation that is consistent with the licensing objectives and should only be supplemented where there is clear evidence of a risk to the licensing objectives that requires that additional conditions be imposed. The evidential basis for additional conditions should be made clear and the statement amended to remove any suggestion that conditions will be added where there is a "perceived need" as stated in the draft statement of Gambling Licensing Principles.



**GOSSCHALKS**  
SOLICITORS



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**Your ref:**  
**Date:** 14 June 2017

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is

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important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that number of shops as of March 2017 was 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the "*desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.*"

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and

socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

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### Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

### Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over

£50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

### **Other concerns**

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Considerations specific to the 2017 Statement Gambling Licensing Principles**

The ABB is aware that the draft Statement of Gambling Licensing Principles makes a few minor changes to the existing document but contains a new section headed "Local Risk Assessment". On behalf of the ABB we will deal with this section first before returning to deal with other issues arising out of the Statement of Gambling Licensing Principles 2017.

Section 10 correctly identifies that since 6 April 2016 premises licence holders have been required to conduct a local risk assessment for each of their premises. The requirement is to take into account relevant matters identified in the licensing authority's statement of licensing policy.

Section 10 states that licence holders should have regard to places of worship and other gambling premises when conducting the risk assessment. The Statement of Gambling Licensing Principles correctly identifies that moral objections to gambling are an irrelevant consideration but it is difficult to see how a place of worship can be a relevant consideration when determining whether or not the operation of a gambling premise is reasonably consistent with the licensing objectives. We respectfully submit that the references to places of worship and other gambling premises (demand is similarly an irrelevant issue) should be removed from the list of matters to be taken into account. (1)

In addition, the Statement of Gambling Licensing Principles indicates that operators should take notice of the socio-economic make up of an area when preparing a local risk assessment. The relevant affluence of an area can have no bearing whatsoever on whether or not the operation of premises would be reasonably consistent with the licensing objectives unless the licensing authority has pre-determined that persons of a particular income level are more likely to commit crime or be vulnerable. We are certain that this is not the case. Accordingly, this reference should be removed. (2)

Paragraph "(iv) Location" within part B of the Statement of Gambling Licensing Principles causes the ABB concern. This suggests that the licensing authority may adopt a policy such that there are certain areas where gambling premises should not be located. Such a policy may be unlawful and is certainly contrary to the overriding principle that the licensing authority must "aim to permit" the use of premises for gambling when considering an application. Elsewhere the Statement of Gambling Licensing Principles is clear that each application will be considered on its own merit. We respectfully submit that this reference to a potential policy where gambling premises should not be located should be removed. Following recent changes to the planning legislation that requires that betting office use must be specified then issues of location may be dealt with under the planning legislation rather than through licensing. (3)

The Statement of Gambling Licensing Principles would be assisted by an acknowledgement that the starting point for any application is that it will be granted subject to the mandatory and default conditions only. These conditions are usually sufficient to ensure operation that is consistent with the licensing objectives and should only be supplemented where there is clear evidence of a risk to the licensing objectives that requires that additional conditions be imposed. The evidential basis for additional conditions should be made clear and the statement amended to remove any suggestion that conditions will be added where there is a "perceived need" as stated in the draft Statement of Gambling Licensing Principles. Page 46 of 59

## Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for

all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



**GOSSCHALKS**

**Andrew Burrows**

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**From:** Andrew Burrows  
**Sent:** 24 July 2017 09:33  
**To:** 'Juliet Harris'  
**Cc:** Sarah Meeten  
**Subject:** RE: Gambling Policy Review - consultation response

Good morning Juliet

Thank you for your input into our review of the Gambling Policy for the Arun District.

Stakes are an issue we have no control over. The Gambling Act 2005 controls the Fees and Stakes by Regulation. The Secretary for State is responsible for the regulations.

The Gambling Commission is the lead agency and responsible for issuing guidance to local authorities on how they should interpret the Act and Regulations.

As a Local Authority we have no power to set fees other than in accordance with the Gambling Act. We certainly do not have the authority to set a levy against a gambling business.

I hope this assists you.

Regards.

Andy Burrows

Assistant Licensing Officer  
 Tel: 01903 737749

[andrew.burrows@arun.gov.uk](mailto:andrew.burrows@arun.gov.uk)

**From:** Juliet Harris [<mailto:jharris@littlehampton-tc.gov.uk>]  
**Sent:** 21 July 2017 10:53  
**To:** Licensing  
**Subject:** Gambling Policy Review - consultation response  
**Importance:** High

Regarding the consultation on this policy please see below comments on the proposed changes that have been received from our Members:

I have no problem with the new section 10 as it goes some way to strengthen the control on gambling and provision of help of addiction to those that may need it.

However, the report doesn't seem to go far enough to control the level of stake money, page 12 says that conditions of stakes cannot be attached to premises licenses, this I feel is a shame and restrictive.

My belief is gambling and alcohol should not mix and customers should not imbibe alcohol while gambling, this may encourage someone to gamble more than they can afford or would not have staked had they not had a drink.

The report also does not stipulate controls on the method of paying stakes. Generally most people think that fruit machines for example only take coins which suggests small stakes. This seems to be acceptable to the person that may just play for fun. However, there are high stake machines that take notes and credit cards.

Finally, I feel a 10% levy should be placed on the fee for gambling licences to contribute to the organisations that have to pick up the pieces to help people with gambling addiction.

Many thanks.

Juliet Harris  
Committee Assistant  
Littlehampton Town Council  
Manor House  
Church Street  
Littlehampton  
BN17 5EW

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# Gambling Act 2005

## 2005 CHAPTER 19

### PART 18

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **349 Three-year licensing policy**

- (1) A licensing authority shall before each successive period of three years—
  - (a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
  - (b) publish the statement.
- (2) A licensing authority shall—
  - (a) review their statement under this section from time to time,
  - (b) if they think it necessary in the light of a review, revise the statement, and
  - (c) publish any revision before giving it effect.
- (3) In preparing a statement or revision under this section a licensing authority shall consult—
  - (a) either—
    - (i) in England and Wales, the chief officer of police for the authority's area, or
    - (ii) in Scotland, the chief constable of the police force maintained for the police area comprising that area,
  - (b) 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
  - (c) 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 this Act.
- (4) The Secretary of State may make regulations about—

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- (a) the form of statements under this section;
  - (b) the procedure to be followed in relation to the preparation, review or revision of statements under this section;
  - (c) the publication of statements under this section.
- (5) In relation to statements prepared under this section by licensing authorities in Scotland, subsection (4) shall have effect as if the reference to the Secretary of State were a reference to the Scottish Ministers.
- (6) The Secretary of State shall by order appoint a day as the first day of the first period of three years for the purpose of this section.
- (7) Where a licensing authority is specified in an order under section 175 they shall ensure that their statement under this section includes the principles that they propose to apply in making determinations under paragraph 5 of Schedule 9.

**Annotations:**

**Modifications etc. (not altering text)**

**C1** S. 349(6): 31.1.2007 appointed for the purposes of s. 349 by S.I. 2006/637, art. 2

**Commencement Information**

**I1** S. 349 in force at 31.3.2006 by [S.I. 2006/631](#), **art. 2(1)(b)**

### Changes to legislation:

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#### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2014/1641 art. 4(1)
- Act modified by S.I. 2008/2867 reg. 12(1)(a)(iii)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23(5)(da) inserted by S.I. 2013/602 Sch. 2 para. 49(2)
- s. 24(11)(ba) inserted by S.I. 2013/602 Sch. 2 para. 49(3)
- s. 25(5)(aa) inserted by S.I. 2013/602 Sch. 2 para. 49(4)(b)
- s. 30(9) inserted by S.I. 2013/2329 Sch. para. 12
- s. 33(3A) inserted by 2014 c. 17 s. 1(1)
- s. 36(3) (3A) substituted for s. 36(3) by 2014 c. 17 s. 1(2)
- s. 67(4) inserted by 2014 c. 26 Sch. 28 para. 23
- s. 118(3A) inserted by 2014 c. 26 Sch. 28 para. 24
- s. 118A inserted by 2014 c. 26 Sch. 28 para. 25
- s. 119(3A) inserted by 2014 c. 26 Sch. 28 para. 26
- s. 172(12) inserted by 2016 c. 11 s. 52(4)
- s. 172(12)(aa) inserted by 2017 c. 4 s. 58(1)
- s. 211(4)(c)(ca) substituted for s. 211(4)(c) by S.I. 2012/1659 Sch. 3 para. 17(2)
- s. 231(3)(c)(ca) substituted for s. 231(3)(c) by S.I. 2012/1659 Sch. 3 para. 17(3)
- s. 261(1)(ba) inserted by S.I. 2016/124 art. 4(1)(b)(iii)
- s. 263(3) inserted by S.I. 2016/124 art. 4(1)(c)
- s. 355(8A) inserted by 2017 c. 4 s. 58(2)(c)
- s. 355(9)-(11) substituted for s. 355(9)(10) by 2016 c. 11 s. 52(5)(b)
- Sch. 7 para. 22A inserted by 2006 c. 52 Sch. 16 para. 246(b)
- Sch. 7 para. 11A inserted by 2016 c. 2 Sch. 5 para. 6
- Sch. 7 para. 14A substituted for Sch. 7 para. 14-16 by 2006 c. 52 Sch. 16 para. 246(a)
- Sch. 7 para. 22A words substituted by 2007 c. 27 Sch. 5 para. 6
- Sch. 11 para. 13(2)(b) and word inserted by S.I. 2016/124 art. 3(c)
- Sch. 11 para. 13(2)(a) words renumbered as Sch. 11 para. 13(2)(a) by S.I. 2016/124 art. 3(b)

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# Gambling Act 2005

## 2005 CHAPTER 19

### <sup>F1</sup>PART 8

#### PREMISES LICENCES

##### *General*

#### **212 Fees**

- (1) Regulations under this Part prescribing a fee—
  - (a) may provide for the amount of the fee to be determined by a licensing authority, and
  - (b) may, if they make provision by virtue of paragraph (a), specify constraints on a licensing authority's power to determine the amount of the fee.
- (2) Where provision is made under subsection (1) for the amount of a fee to be determined by a licensing authority, the authority—
  - (a) shall determine the amount of the fee,
  - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),
  - (c) shall publish the amount of the fee as determined from time to time, and
  - (d) shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service).
- (3) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate.
- (4) Regulations by virtue of this section may (without prejudice to the generality of section 355)—

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- (a) make provision which applies generally or only to specified authorities or classes of authority,
  - (b) make different provision for different authorities or classes of authority, and
  - (c) make transitional provision in respect of a case where an authority enters or leaves a class.
- (5) A class of authority for the purposes of subsection (4) may, in particular, be defined by reference to categories assigned under section 99 of the Local Government Act 2003 (c. 26).
- (6) This section does not apply to Scotland.

**Annotations:**

**Commencement Information**

- II** S. 212 in force at 21.5.2007 by [S.I. 2006/3272](#), art. 2(2), **Sch. 2** (with arts. 7-11, 7-12, Sch. 4) (as amended by [S.I. 2007/1157](#), arts. 3(3), 4)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

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- Act modified by S.I. 2008/2867 reg. 12(1)(a)(iii)

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- s. 30(9) inserted by S.I. 2013/2329 Sch. para. 12
- s. 33(3A) inserted by 2014 c. 17 s. 1(1)
- s. 36(3) (3A) substituted for s. 36(3) by 2014 c. 17 s. 1(2)
- s. 67(4) inserted by 2014 c. 26 Sch. 28 para. 23
- s. 118(3A) inserted by 2014 c. 26 Sch. 28 para. 24
- s. 118A inserted by 2014 c. 26 Sch. 28 para. 25
- s. 119(3A) inserted by 2014 c. 26 Sch. 28 para. 26
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- s. 263(3) inserted by S.I. 2016/124 art. 4(1)(c)
- s. 355(8A) inserted by 2017 c. 4 s. 58(2)(c)
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## Appendix G: Licensing authority delegations

Summary of licensing authority delegations permitted under the Gambling Act, applicable to England and Wales only

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

X indicates the lowest level to which decisions can be delegated