



**DRAFT**

## **Gambling Act 2005**

# **Statement of Policy and Principles 2019 - 2022**

Approved on: ## December 2018  
Published on: ## December 2018  
In effect from: ## January 2019

This Licensing Policy was approved by the London Borough of Sutton (The Council) on <DATE TO BE INSERTED>. It is made in accordance with its responsibilities and powers under the Gambling Act 2005, and takes into account guidance issued by the Gambling Commission.

**All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015 (as amended).**

## Contents

Page

### **PREFACE**

Background

### **PART A – STATEMENT OF PRINCIPLES**

Declaration

The Licensing objectives

Consultation process

Responsible authorities

Interested parties

Exchange of information

Enforcement

Licensing Authority functions

### **PART B - PREMISES LICENCES**

General Principles

Decision Making

Definition of premises (including split premises)

Premises ‘ready for gambling’

Location

Planning

Duplication with other statutory regimes

Licensing objectives

Conditions

Door Supervisors

Adult Gaming Centres

Family Entertainment Centres (Licensed)

Casinos

Bingo premises

Betting premises – Betting machines

Travelling fairs

Provisional Statements

Reviews

### **PART C – PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES**

Unlicensed Family Entertainment Centre gaming machine permits

(Alcohol) Licensed premises gaming machine permits

Prize Gaming Permits

Club Gaming and Club Machines Permits

Temporary Use Notices

Occasional Use Notices

### **PART D – LOTTERIES**

### **GLOSSARY – LICENCES, PERMITS AND NOTICES**

## **APPENDIX A – TABLE OF DELEGATES OF LICENSING FUNCTIONS**

### **PREFACE**

#### **Background**

The London Borough of Sutton lies to the south west of London with a population of around 200,000. In terms of area, it covers nearly 17 square miles. It is bordered by the London boroughs of Croydon, Merton and the Royal Borough of Kingston upon Thames and the Surrey boroughs of Epsom and Ewell and Reigate and Banstead

The Council area is mainly urban with a more rural section of green belt land to the south of the Borough. With 607 hectares of green space and 16 parks, Sutton is one of London's greenest boroughs. Sutton is divided into 18 wards, each represented by three councillors. Outside of the Sutton town centre there are 7 distinctive district centres with retail and commercial areas.

The Borough is experiencing a time of significant population increase, as seen across London as a whole, which requires a substantial increase in the provision of housing and employment opportunities. It is estimated that by 2031 the Borough will need an additional 6,400 new homes.

There are no racecourses or dog tracks sited in the borough

A map of the area is contained in the Local Area Profile, a separate document that accompanies this policy.

Should you have any comments in regards to this statement of policy please send them via e-mail or letter to:

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Kingston and Sutton Shared Environmental Service  
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Carshalton  
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## **PART A – STATEMENT OF PRINCIPLES**

1. The Licensing Authority has a duty under the Gambling Act 2005 to publish a statement of policy at least every three years, giving the principles which the Authority proposes to apply when exercising its statutory functions under the Act.
2. The first Licensing Policy was published in 2006 following consultation and Council approval. This fifth edition takes into consideration the latest Gambling Commission advice and issues and concerns that have arisen over the life of the previous policy.
3. This policy recognises that the Council has a legal obligation to work to eliminate unlawful discrimination and promote equality of opportunity on the grounds of age, disability, gender, race, religion or beliefs and sexual orientation. The provisions of the Gambling Act 2005 and this Policy will therefore be operated accordingly.
4. The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council has had particular regard to the following relevant provisions of the European Convention on Human Rights when determining this policy:-
  - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
  - Article 8 that everyone has the right to respect for his home and private and family life
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.

### **Declaration**

5. In producing this statement of policy, the Licensing Authority declares that regard has been had to the Licensing Objectives set out in Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and responses from those consulted on the statement.
6. This Statement of Policy was approved at a meeting of the Full Council on <DATE TO BE INSERTED > and was published via our website on < DATE TO BE INSERTED >.
7. This statement of licensing policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **The Licensing Objectives**

8. In exercising functions under the Gambling Act 2005, the Licensing Authority will have regard to the Licensing Objectives as set out in section 1 of the Gambling Act 2005:
- 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.
9. In addition when making decisions about premises licences and temporary use notices the Licensing Authority will, in accordance with Section 153 of the Gambling Act 2005, aim to permit the use of the premises and discharge its legal duties in so far as 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.
  - In a manner reasonably consistent with the licensing objectives and
  - In accordance with the authority's statement of principles herein.

### **Consultation Process**

10. The Gambling Act 2005 requires that the following parties are consulted by licensing authorities when determining or reviewing its Statement of Policy:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
11. In reviewing this policy, the Licensing Authority consulted with the following stakeholders between < DATE TO BE INSERTED > and < DATE TO BE INSERTED >;
- The Metropolitan Police Service, Sutton Police Station
  - The London Fire and Emergency Planning Authority
  - Local Safeguarding Children's Board
  - Sutton Safer Partnership
  - Licence holders and gambling operators providing service in the Borough
  - Representatives of local businesses
  - Persons and businesses likely to be affected by authorising gambling within the district
  - Public Health

### **Responsible Authorities**

12. The licensing authority is required to state the principles it will apply in exercising its powers under Section 157(h) of the Gambling Act 2005 to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The designated body must:
  - Be responsible for an area covering the whole of the licensing authority's area and,
  - Be answerable to democratically elected persons, rather than any particular vested interest group.
13. In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.
14. The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at [www.sutton.gov.uk](http://www.sutton.gov.uk)

### **Interested parties**

15. Interested parties are entitled to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005, at section 158, as follows:

*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)*

16. The licensing authority is required 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.
17. The Licensing Authority has determined that these principles are:
  - Each case will be decided upon its merits.
  - The Authority will not apply a rigid rule to its decision making.
  - It will take account of the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities.
  - All decisions on premises licences and temporary use notices will be made in accordance with Gambling Commission Guidance
  - Having 'business interests' will, in accordance with the Gambling Commission's Guidance 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 Local Authority Ward Councillors, Members of the Greater London Authority, Members of Parliament, and Members of the European Parliament. No specific evidence of being asked to represent an interested

person will be required as long as the elected member represents the ward likely to be affected. For other representatives however, the licensing authority will require written evidence that a person/body (e.g. an advocate / relative) representing 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 has been authorised so to do. A letter from the persons/group, requesting the representation is sufficient.

### **Exchange of Information**

18. Licensing authorities are required to include in their Licensing Policy the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Gambling Act 2005 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 Gambling Act 2005.
19. 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, particularly when providing information to the authorities listed in section 350 of the Act, and will be mindful of its obligations under the General Data protection Regulations 2018 and the Data Protection Act 2018.
20. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on the matter of information exchange, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

### **Enforcement**

21. The Licensing Authority is required by regulation under the Gambling Act 2005 to state the principles it will apply in exercising functions under Part 15 of the Act in respect to the inspection of premises; and its powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
22. In carrying out its enforcement function this Authority will comply with the Regulators Code and will:
  - a. Carry out our activities in a way that supports those we regulate to comply and grow
  - b. Provide simple and straightforward ways to engage with those we regulate and hear their views
  - c. Base our regulatory activities on risk
  - d. Share information about compliance and risk
  - e. Ensure clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply
  - f. Ensure that our approach to regulatory activities is transparent
23. 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 and only intervene when necessary. Remedies will be appropriate to the risk posed and costs identified.

- Accountable in so far as to be able to justify decisions and be subject to public scrutiny.
- Consistent with rules and standards being joined up and implemented fairly.
- Transparent in so far as regulation will be open, simple and user friendly.
- Targeted and focused on identified problems to minimise impacts, particularly on the community.
- The Licensing Authority will endeavour whenever possible to avoid duplication with other regulatory regimes.

24. The Licensing Authority's main enforcement and compliance role under the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises in accordance with its Enforcement Policy which is published on our website.

### **Licensing Authority functions**

25. This policy relates to all those activities falling within the scope of the Gambling Act 2005 for which the Council is the Licensing Authority and which includes the following activities:-

- Casinos
- Bingo & Bingo Premises
- Betting premises
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Gaming Machines
- Gaming Permits
- Prize Gaming
- Temporary and Occasional Use Notices
- Small Society Lotteries

26. The Licensing Authority recognises that it is required under the Gambling Act 2005 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 licenses that are issued under these functions

## **PART B - PREMISES LICENCES**

### **General Principles**

27. 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. The Licensing Authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.

### **Decision-making**

28. The Licensing Authority recognises the need to implement its licensing responsibilities as quickly, efficiently and cost effectively as possible. To that end it will operate through the Council Licensing Committee and Sub-Committees [drawn from the Members of the Licensing Committee] and delegation to officers.

29. Applications will be dealt with by Sub-Committees and officers in accordance with the scheme of delegation set out at Appendix A. However applications delegated for action by officers may be referred to a Sub-Committee where there are exceptional reasons for that to be done.

30. A Licensing Sub-Committee, drawn from members of the Licensing Committee, will normally sit in public to hear applications where representations have been received from interested parties and responsible authorities.

31. This Licensing Authority, in making decisions about premises licences, will aim to permit the use of premises for gambling (as per section 153 of the Gambling Act 2005) in so far as it determines appropriate:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- In a manner which is consistent with the licensing objectives; and is
- In accordance with the Council's Licensing Policy.

32. The Licensing Authority accepts the Gambling Commission's Guidance which states that "Moral objections to gambling are not a valid reason to reject applications for premises licences".

33. The Licensing Authority further accepts that unmet demand is not a criterion for a licensing authority to consider when determining applications.

**Definition of 'premises' including 'split premises'**

34. In the Gambling Act 2005, 'premises' is defined as including "any place". Section 152 prevents more than one premises licence applying to any place however 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.
35. However the Licensing Authority will focus particular attention to applications where there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed and are achievable.
36. The Licensing Authority will nevertheless be cognisant of the current guidance from the Gambling Commission in regard to these types of applications.
37. Part 7 of the Gambling Commission's Guidance contains further information on this issue, and the Licensing Authority will take this Guidance into account in its decision-making regarding premises and 'split premises'.

**Premises 'ready for gambling'**

38. A licence to use premises for gambling which have still to be constructed or altered will only be issued where this Authority is satisfied
  - a. that the premises ought to be permitted to be used for gambling; and
  - b. that appropriate conditions can be put in place to cater for the fact that the premises are not yet in the state in which they ought to be before gambling can take place.
39. This Authority will expect that a new application will be made if the plans submitted at the time of the application are changed in any material respect during the construction and fitting out of the premises after the grant of the licence to preserve the rights of interested parties and responsible authorities to make representations

**Plans**

40. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed and that all gambling activity is clearly shown on the plan.
41. In order to ensure that a premises is properly providing the primary gambling activity this Authority will expect all new premises licence applications and all variation applications to be accompanied by a plan that not only complies with the requirements of the legislation but also clearly indicates the area used for the primary gambling activity and any other gambling activity, including the number and position of all machines (both betting machines and gaming

machines). Where the number and/or position of machines are altered this Authority will expect a change of circumstance application to be made.

### **Local Risk Assessments**

42. The Social Responsibility Code forming part of the Gambling Commissions Licence Conditions and Codes of Practice requires that, from 6th April 2016, operators assess the local risks to the licensing objectives arising from the provision of gambling facilities at each of their premises and provide and implement policies, procedures and control measures to mitigate any risks identified.
43. The Licensing Authority considers that local risk assessments are a vital part of the application process and expects all applications for new or variations to premises licences to be supported by a risk assessment which considers, as a minimum:
  - The location (see paragraphs 49 to 52 below)
  - The operation of gambling including staffing levels, staff training, security and crime prevention measures, marketing / advertising and the display and provision of information to support vulnerable persons.
  - The design of the premises including sight-lines from any staff areas / counters to gaming equipment, entrances/exits and the external view into the premises.
  - Control measures designed to minimise risks of crime and disorder, including for example closed-circuit television (CCTV), remotely controlled entrance mechanisms and age verification procedures.
44. Operators will be expected to review their risk assessment in the event of significant changes in local circumstances including for example any development or redevelopment of property, increase in pay day loan / pawn broker service providers, public transport, increases or decreases in crime and changes in competitor businesses.
45. The Authority will consider the risk assessment when determining applications. The authority is particularly concerned about the:
  - Clustering together of gambling premises in any one area of the Borough
  - Appropriate measures are in place to prevent under-age gambling or the exposure of under-age children to gambling
  - Staffing levels in gambling premises are sufficient, and that staff are suitably trained and supported to identify persons for whom gambling may be a problem.
46. Risk Assessments must, by their very nature, be based on the individual premises and the issues in the local area, This Policy does not preclude any application being made and each application will be considered and determined on its own merits.
47. The Authority considers the onus is on the applicant/operator to demonstrate how potential risks or concerns can be mitigated.

48. The Risk Assessment should be kept on the individual premises holding the licence to assist staff in carrying out their duties and, to ensure it is available during inspection by authorised officers.

### **Location**

49. The Licensing Authority is aware that whilst 'need' or 'demand' issues cannot be considered with regard to the location of premises, consideration in terms of the licensing objectives are relevant to its decision making.
50. The Licensing 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.
51. The Authority will consider with particular care any application that is made for a premises that are:
- Close to educational establishments including nurseries, schools, colleges and universities
  - Situated in an area of high crime
  - Situated in an area of deprivation
  - Close to services assisting vulnerable people
  - Close to services who are in whole or part aimed at children or young people, including Libraries, Youth Centres, Leisure facilities
  - Close to existing premises offering pawn broking, instant / pay-day loans or similar services

When determining whether two or more premises are considered 'close', the Authority will assess each on its own merits, including but not exclusively, the distance between them, the ease of access between premises and the number of such premises in the locality.

52. It should be noted that this or 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 to show how any concerns can be overcome.

### **Local Area Profile**

53. The Licensing Authority has published a Local Area Profile highlighting the key characteristics for consideration by operators when completing Risk Assessments.
54. The Local Area Profile is published as a separate document to this Policy and will be updated from time to time as new data becomes available. Operators are still expected to have consideration to the Local Area Profile in the same way as might be if it formed part of this policy.

### **Planning**

55. In accordance with Section 210 of the Gambling Act 2005 and Gambling Commission Guidance, the Licensing Authority, when dealing with a premises licence application, will not take into account whether those buildings have or

comply with the necessary planning or building consents. The Authority recognises that these matters are dealt with under relevant planning control and building regulation powers, and cannot form part of the consideration for the premises licence.

56. 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.
57. However in the spirit of transparency, the Authority will bring to the attention of any relevant department any discrepancy between licence applications and planning consent that are noted during the determination process.

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

58. The Licensing Authority shall seek to avoid any duplication with other statutory regulatory regimes where possible although it will listen to, and consider carefully, any concerns about conditions which are not able to be met by a licence holder due to other regulatory restrictions, should such a situation arise.
59. Regulatory regimes associated with fire safety, health and safety, planning and building control do not form part of the consideration for the premises licence, and applicants and licence holders are reminded of the separate obligations in respect of these areas.

### **Licensing objectives**

60. Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's Guidance and make the following statements of principles.
61. **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
  - (a) The Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime.
  - (b) Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
  - (c) Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether imposition of conditions may be appropriate.

The Authority is aware of the distinction between disorder and nuisance and recognise that disorder is intended to mean activity that is more than just nuisance. When determining contested applications the Authority will consider factors including whether police assistance was required and how threatening the behaviour was to those who could see it.

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

- (a) The Licensing Authority notes that the Gambling Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way and recognises this will be addressed via operating and personal licences. The Authority will however refer any concerns or suspicions arising in connection with this objective to the Gambling Commission.

**63. Protecting children and other vulnerable persons from being harmed or exploited by gambling**Children

- (a) The Licensing Authority will consider whether specific measures are required at particular premises with regard to this licensing objective, including but not exclusively entrance controls, supervision levels, location of facilities and segregation of areas.
- (b) The Licensing Authority is also aware, and will take into consideration, the Gambling Commission Code of Practice in relation to this licensing objective.

Vulnerable persons

- (c) The Authority recognises that the Gambling Commission does not seek to offer a definition of 'vulnerable persons' but for regulatory purposes assumes that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.
- (d) The Licensing Authority will consider this licensing objective on a case by case basis with reference to Responsible Authorities or other sources of information as appropriate.

**Conditions**

64. Any conditions to be attached to licences, whether mandatory, default or attached by the Licensing Authority will be necessary for the promotion of the Licensing Objectives. Conditions will be proportionate and:
- Relevant to the need to make the proposed building suitable as a gambling facility;
  - Directly related to the premises and the type of licence applied for
  - Fairly and reasonably related to the scale and type of premises; and
  - Reasonable in all other respects.
65. Decisions upon the need for, and the content of, individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need. Attention is drawn to the specific comments made for some of the licence types below.

66. The Licensing Authority expects applicants, via their risk assessment or otherwise, to offer suggestions as to steps needed to ensure the licensing objectives can be met effectively.
67. This Authority also considers specific measures may be required for buildings which are subject to multiple premises licences including the supervision of entrances, segregation of gambling from non-gambling areas (particularly those frequented by children) and the supervision of gaming machines in non-gambling specific premises.
68. The Licensing Authority will seek to ensure in respect of the provision of Gaming Machines, and specifically 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.
69. These considerations will apply to all relevant premises including buildings where multiple premises licences are applicable. The Licensing Authority will consider the impact upon the Licensing Objectives and the need to ensure that entrances to each type of premises are distinct, and that children are excluded by physical barriers / obstructions wherever possible from gambling areas where they are not permitted to enter.
70. The Licensing Authority recognises it cannot attach conditions which:
- make it impossible to comply with any Operating Licence condition;
  - relate to gaming machine categories, numbers, or method of operation;
  - 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 prevents it from being reinstated); and
  - in relation to stakes, fees, winnings or prizes.

### **Door Supervisors**

71. Where the Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young person's) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on a premises licence to this effect.
72. 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 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.

### **Adult Gaming Centres**

73. The Licensing Authority will have specific 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 those under 18 years of age do not have access to the premises.
74. This licensing authority may consider the following or other necessary measures to meet the licensing objectives in such premises:
- Age verification schemes
  - CCTV provision, including location and quality
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices and signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare.
75. This list is neither mandatory, nor exhaustive, and is merely indicative of example measures.

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

76. The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or from 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.
77. This licensing authority may consider measures to meet the licensing objectives such as:
- Age verification schemes
  - CCTV provision, including location and quality
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry points
  - 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
78. This list is neither mandatory, nor exhaustive, and is merely indicative of example measures.

79. This licensing authority will refer to the Gambling Commission's publications for any recommended conditions that may apply to the respective Operating Licences which relate to the way in which the area containing the category C machines should be delineated.

### **Casinos**

80. There are currently no casinos operating within the Borough.
81. No resolution to prohibit casinos in the Borough has been made at present, however the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.
82. Should the Council choose to make such a resolution, this will be a resolution of Full Council following considered debate and this policy document will be updated to reflect any such changes.

### **Bingo premises**

83. The Licensing Authority notes Gambling Commission's Guidance, particularly on the concept of 'primary activity', and will satisfy itself that bingo can be played in any bingo premises for which a premises licence is issued.
84. This will, in particular, be a relevant consideration where the operator of an existing bingo premises seeks to vary their licence to exclude an area of the existing premises from its ambit in order to apply for a new premises licence (or multiple licences) for that or those excluded areas.
85. The Licensing Authority will have specific 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 those under 18 years of age do not have access to the premises.
86. The Licensing Authority is aware of unusual circumstances in which the splitting of a pre-existing premises into two (or more) adjacent premises might be permitted. However, it notes that it is not permissible to locate the maximum number of permitted gaming machines in one of the resulting premises and will ensure where premises are so split that the gaming machine entitlement applies to each 'premises' independently.
87. The Authority will ensure that where category B or C machines are made available for use in premises licensed for the playing of Bingo, they are so located so as to be separated from areas where children and young people are permitted.

### **Betting premises – Betting machines**

88. The Licensing Authority will take into account the Gambling Commission's guidance on betting machines, Category B2 gaming machines, also known as

fixed odds betting terminals (FOBT) and, in particular, advice on 'primary gambling activity' when considering applications for Betting premises.

89. The Licensing Authority will have specific 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 those under 18 years of age do not have access to the premises.
90. When doing so, consideration will specifically be given to 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 gaming machines / FOBT's. It is expected that operators will have regard to these matters in their Risk Assessment. .

### **Travelling Fairs**

91. The Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use that the statutory requirement that facilities for gambling amount to no more than an ancillary amusement at the fair is met.
92. The Authority will also consider whether the applicant falls within the statutory definition of a travelling fair, and notes that the 27-day statutory maximum period during which land may be used as a fair applies on a per calendar year basis and 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.
93. The 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.

### **Provisional Statements**

94. Potential operators may wish to apply to this authority for a Provisional Statement before entering into a contract to buy or lease property or land. This process allows prospective operators to judge whether a development is worth taking forward in light of the need to obtain a premises licence.
95. Section 204 of the Gambling Act 2005 provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that they:
  - Expect to be constructed;
  - Expect to be altered; or
  - Expect to acquire a right to occupy.
96. The process for considering an application for a provisional statement is the same as that for a premises licence however the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

97. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired and they have a right of occupancy and the Licensing Authority recognises that it will be constrained in the matters it can consider when determining a subsequent premises licence application. The Authority will not take into account any (further) representations from Responsible Authorities or interested parties 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.
98. 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 premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

### **Reviews**

99. 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. When making such a determination whether to Review a licence, the Authority will do so on the basis of whether the request 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;
  - in accordance with the authority's Licensing Policy;
  - is frivolous, vexatious, or whether it will certainly not cause the Authority to wish to alter, revoke or suspend the licence
  - whether it is substantially the same as previous representations or requests for review
100. The Licensing Authority recognises that – as a Responsible Authority - it is entitled to 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.
101. 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.
102. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed. In absence of any statutory timescale, and in the interests of expediency, the Authority will aim to

commence the Review no later than one calendar month after the period for making representations ends and will provide all parties with at least 10 working days' notice of the Review hearing.

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

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the premises licence.

104. In determining what action, if any, should be taken following a review, the Licensing Authority will have regard to the principles set out in section 153 of the Gambling Act, as well as any relevant representations.

105. The Authority is keen to deter people from applying for licences in a speculative manner without intending to use them, and the Authority reserves the right to apply for a review on the grounds that a premises licence holder has not provided facilities for gambling at the premises. Once the review has been completed, the licensing authority will normally notify its decision within 5 working days to:

- The licence holder
- The applicant for review
- The Gambling Commission
- Any person who made representations
- The Chief Officer of Police; and
- Her Majesty's Commissioners for Revenue and Customs

## **PART C – PERMITS, TEMPORARY & OCCASIONAL USE NOTICES**

### **Unlicensed Family Entertainment Centre [FEC] gaming machine permits**

106. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit. The Authority requires that a plan showing the layout of the premises, with locations of gaming machines highlighted will accompany the application.
107. The Licensing Authority expects applicants 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.
108. The efficiency of such policies and procedures will each be considered on their merits, however, acceptable policies are likely to include:
- Measures and training for staff regarding suspected truant school children on the premises,
  - Measures and training for staff on dealing with unsupervised and very young children being on the premises, or children causing perceived problems on /around the premises.
109. The Licensing Authority also expects applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that are permissible in unlicensed FECs and takes steps to ensure that staff working in the premises are trained and have a full understanding of these.
110. Premises in respect of which a FEC Permit shall be granted must be wholly or mainly used for making gaming machines available for use.
111. The Licensing Authority will consult the Chief Officer of Police on all such applications. The Authority recognises it is unable to attach conditions to a FEC permit, however it may provide advice to operators on measures of good practice either at the time of grant or at some other time.

### **Alcohol Licensed premises - gaming machine permits**

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

112. The Gambling Act 2005 permits premises licensed to sell alcohol for consumption on the premises, and which have a bar, to provide 2 gaming machines, of categories C and / or D. Any premises wishing to do so must notify the licensing authority, and authorisation is granted automatically.
113. The Authority is empowered to remove the 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 in breach of a condition of section 282 of the Gambling Act 2005 (i.e. where no written notice has been

- provided to the licensing authority, where any fee is outstanding and where any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been complied with); The premises are mainly being used for gaming; or
- An offence under the Gambling Act 2005 has been committed on the premises.

#### Permit: 3 or more machines

114. Any premises wishing to provide more than 2 machines requires a permit. The Licensing Authority will consider an application based upon the licensing objectives and any guidance issued by the Gambling Commission and any other matters it believes relevant in the circumstances.
115. The Licensing Authority considers that, whilst other matters it takes into consideration will be decided on a case by case basis, it expects applicants to have regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling. The Authority will not grant such permits where it considers there are insufficient measures to ensure that under 18 year olds do not have access to the gaming machines.
116. Measures that may deem to satisfy the Licensing Authority include;
- The gaming machines being located in sight of the bar or in the sight of staff who are able to monitor their use and ensure machines are not being used by those under 18
  - Appropriate notices and signage
  - In relation to protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare
117. The Licensing Authority recognises it is able to grant any permit with a smaller number of machines, or a different category of machines, than that applied for but that it cannot attach conditions to any such permit.
118. 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.

#### Prize Gaming Permits

119. The Licensing Authority will require applicants for Prize Gaming Permits to demonstrate;
- That they understand the limits to stakes and prizes that are set out in Regulations;
  - That the gaming to be offered is within the law
  - Clear policies are in place outlining the steps to be taken to protect children from harm.
120. In making its decision on an application for a permit the Licensing Authority recognises that it does not need to (but is entitled to) have regard to the licensing objectives. The Authority but will have regard to any Gambling Commission guidance.

121. It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with, and applicants are strongly recommended to familiarise themselves with those. The Authority cannot attach any other conditions to any granted permit.

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

122. Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit to enables the provision of gaming machines (up to 3 machines of categories B3A, B3, C or D), equal chance gaming and games of chance as set out in legislation.

123. The Authority will ensure when considering permit applications that the applicant Members club has at least 25 members and are established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations.

124. In such respects, the Authority recognises that regulations permit the playing of bridge and whist without a permit.

125. A members' club seeking to benefit from a permit must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

126. The Licensing Authority recognises that it may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a members' or commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- The applicant's premises are used wholly or mainly by children and/or young people;
- An offence under the Gambling Act 2005 or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the Police.

127. The grounds on which the Licensing Authority may refuse an application made under the "Fast track" procedure (by Clubs holding a Club Premises Certificate under the Licensing Act 2003) are:

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

### **Temporary Use Notices**

128. 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 which might be suitable for a Temporary Use Notice, according to guidance, would include hotels, conference centres and sporting venues.

129. The licensing authority will only grant a Temporary Use Notice to a person or company holding a relevant Operators Licence
130. The Authority will object or reject 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 (in line with recommendations in the Gambling Commission's Guidance to Licensing Authorities).

### **Occasional Use Notices**

131. 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.
132. The Licensing Authority will however consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice

**Part D – LOTTERIES**

133. The Licensing Authority is responsible for the registration of small scale society lotteries where the principal office is located within the borough.
134. Such lotteries can only be promoted for charitable purposes, participation in or supporting sport, cultural activities or for other non-commercial purposes other than for private gain.
135. Applicants are reminded that their application may be refused if:
- The applicant is not a non-commercial society;
  - A person connected with the lottery promotion has been convicted of a relevant offence;
  - False or misleading information is provided.
136. The Authority will, where necessary, invite applicants to provide evidence to support their application including articles of association, minutes of Annual General Meetings or Committee Meetings or other such documents that may assist the Authority in determining if a ground for refusal exists.
137. In considering whether to refuse an application or revoke a registration the Licensing Authority will first give an opportunity to the society to make representations.
138. The providers of small society lotteries are required to submit a formal return to the Authority following each draw. The Authority may investigate providers of small society lotteries in the event of a late or missing statutory return, in the event of evidence or report of tickets being sold to children, any suspected misappropriation of funds or where it identifies or receives reports of lotteries being held without or in breach of a registration.

## GLOSSARY – LICENCES, PERMITS AND NOTICES

<p><b><u>Premises licence</u></b></p> <p>Authorises the provision of facilities for gambling on premises for casinos, bingo, betting including tracks, adult gaming centres and family entertainment centres. The premises licence may also include details of conditions. These licenses will be valid for the life of the premises, subject to any review that may be triggered and lapse in certain circumstances, with no annual renewal required, although there is an annual fee. These licences are transferable to someone else holding a valid operating licence.</p>
<p><b><u>Operating licence</u></b></p> <p>Authorises individuals or companies to provide facilities for certain types of remote or non-remote gambling. <u>These licences are issued by the Gambling Commission</u> and generally cover the principle commercial forms of gambling operation. A single licence cannot authorise both remote and non-remote activities; separate operating licences are needed for this. Conditions may be attached.</p>
<p><b><u>Personal licence</u></b></p> <p>Except for small scale operations, each operating licence, at least one person who holds a specified management office must hold a personal licence. <u>These licences are issued by the Gambling Commission</u> with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.</p>
<p><b><u>Unlicensed family entertainment centre gaming machine permits</u></b></p> <p>These allow the use of category 'D' gaming machines in these premises to a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.</p>
<p><b><u>Club gaming permits and club machine permits</u></b></p> <p>Club gaming permits allow members' clubs and miners' welfare institutes [but not a commercial club] to provide gaming machines and equal chance gaming and games of chance. These clubs and commercial clubs may apply for a club machine permit which allows the holder to have up to 3 gaming machines of category 'B', 'C' or 'D'.</p>
<p><b><u>Alcohol licensed premises gaming machine permits</u></b></p> <p>The Licensing Authority can issue such permits for any number of category 'C' or 'D' machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category 'C' or 'D' for use in alcohol licensed premises.</p>
<p><b><u>Prize gaming permits</u></b></p> <p>This permit allows the provision of facilities for gaming with prizes on specified premises. "Prize gaming" refers to gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.</p>
<p><b><u>Temporary use notices</u></b></p> <p>These notices authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.</p>
<p><b><u>Occasional use notices</u></b></p> <p>Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dog track and temporary tracks for races or sporting events.</p>

**Appendix A**

**Table of delegations of licensing functions**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Three year licensing policy	X			
Policy not to permit casinos	X			
Fee Setting – when appropriate		X		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission.
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application to review of a premises licence			X	
Application for a club gaming/club machine permits			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Applications for other permits, in particular gaming machines in alcohol premises, and prize gaming			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
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	
Decision on whether a representation is irrelevant frivolous vexatious or substantially the same as previous representations etc.				X
Representation by Licensing Authority as Responsible Authority				X