

# **FAREHAM**

**BOROUGH COUNCIL**

---

# **Gambling Act 2005**

## **Statement of Principles**

February 2019 – January 2022

---

# THE LICENSING OBJECTIVES

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

## Table of Contents

Item		Page
1.	<b>Introduction</b>	5
<b>Part A</b>	<b>The Gambling Act 2005</b>	
2.	The Statement of Licensing Principles and Consultation	7
3.	Licensing Framework	7
4.	Declaration	8
5.	Responsible Authorities	8
6.	Interested Parties	9
7.	Exchange of Information	10
8.	Licensing Authority Functions	11
9.	Fees	12
<b>Part B</b>	<b>Promotion of the Licensing Objectives</b>	
10.	Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.	12
11.	Ensuring that gambling is conducted in a fair and open way.	13
12.	Protecting children and other vulnerable persons from being harmed or exploited by gambling	13
13.	Other Considerations	14
14.	Local Area Profile	14
15.	Money Laundering	15
16.	Proceeds of Crime	16
<b>Part C</b>	<b>Premises Licences</b>	
17.	General Principles	16
18.	Local Area Risk Assessments	19
19.	Conditions on Premises Licences	20
20.	Door Supervisors	22
21.	Adult Gaming Centres (AGC)	22
22.	Licensed Family Entertainment Centres (FEC)	23
23.	Casinos	24
24.	Betting Machines	24
25.	Bingo	25
26.	Betting Premises	26
27.	Tracks	26
28.	Condition on Rules being Displayed	28
29.	Application and Plans	28
30.	Travelling Fairs	28
31.	Provisional Statements	28
<b>PART D</b>	<b>Permits, Notices and Lottery Registrations</b>	
32.	Unlicensed Family entertainment Centre – Gaming Machine Permits	29

33.	Gaming Machine Permits in Premises Licensed for the Sale of Alcohol	30
34.	Prize Gaming Permits	32
35.	Club Gaming and Club Machine Permits	32
36.	Temporary Use Notices	34
37.	Occasional Use Notices (for Tracks)	34
38.	Small Society Lottery Registrations	34

**Part E Enforcement**

39.	Enforcement Principles	35
40.	Reviews	36

**APPENDICES**

<b>Appendix A - CONSULTEES</b>	38
--------------------------------	----

<b>Appendix B - RESPONSIBLE AUTHORITIES</b>	39
---	----

	42
--	----

DRAFT

## 1. Introduction

- 1.1 This statement of principles was updated in November 2018. It is a requirement for the Statement of Principles to be approved by the Executive and the Full Council of Fareham Borough Council.
- 1.2 All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in September 2015 available from [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 1.3 The Gambling Act 2005 has appointed Fareham Borough Council as a Licensing Authority. The Authority will regulate gambling with integrity in the public interest.
- 1.4 The council is committed to avoiding duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this statement of principles, which are already legal requirements under other legislation such as health and safety and fire precautions.
- 1.5 This statement of principles has been developed after having regard to the statutory guidance from the Gambling Commission and having given appropriate weight to the views of persons and organisations consulted.
- 1.6 The council has delegated all functions under the Act to the Licensing Committee, except those functions, which by law must be dealt with by the council, such as the setting of fee levels and the approval of this policy statement.
- 1.7 Section 349 of the Act requires the licensing authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.
- 1.8 This statement of Principles will be applied during the 3-year period from 1<sup>st</sup> February 2019 until 31<sup>st</sup> January 2022 and during that time will be kept under review and revised when and if appropriate, during that 3-year period.
- 1.9 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 1.10 In exercising our functions under the Gambling Act 2005, Fareham Borough Council as a licensing authority will have regard to the statutory licensing objectives, which are;
  - a) **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

**b) Ensuring that gambling is conducted in a fair and open way**

**c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

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

1.12 The Authority is aware that section 153 of the Act requires it, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think fit;

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives above and
- In accordance with this Statement of Principles

1.13 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under this legislation, unmet demand is not a criterion for a licensing authority in considering an application.

1.14 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences “except in respect of a Casino resolution in section 13, and also that unmet demand is not a criterion for a licensing authority.

1.15 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objection to gambling in general.

## **PART A -The Gambling Act 2005**

### **2. The Statement of Licensing Principles and Consultation**

- 2.1 Fareham Borough Council is required by the Gambling Act 2005 to publish a Statement of the Principles, which we propose to apply when exercising our 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.
- 2.2 This statement of principles has been published following extensive consultation. A list of the persons we have sent this document to is attached at **Appendix A**.
- 2.3 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- The Chief Officer of Police
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area
  - 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.
- 2.4 Our consultation will take place between November 2018 and December 2018 and we have followed the Guidance to Licensing Authorities (GLA) on consultations available at <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx>.
- 2.5 The full schedule of comments and amendments consequential to these comments will be available by request to the Licensing Officer, Fareham Borough Council.
- 2.6 This statement of 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, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3. The Licensing Framework**

- 3.1 The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate gambling activity.

- 3.2 The Gambling Commission issues operator licences and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator's licence before they can approach the council for a premises licence. In this way the Gambling Commission can consider potential applicants and organisations to ensure they have the correct credentials to operate gambling premises.
- 3.3 The council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any codes of practice issued by the Gambling Commission. The council also issues various permits and notices to regulate smaller scale and/or ad hoc gambling in various other locations such as pubs, clubs and hotels.
- 3.4 The council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and from 1<sup>st</sup> October 2013 the Gambling Commission took over the responsibilities of the National Lottery Commission to regulate the National Lottery Act.

#### **4. Declaration**

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

#### **5 Responsible Authorities**

- 5.1 Fareham Borough Council is required by regulations to state the principles that we will apply in exercising our 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.
- 5.2 The principles we will use are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
- 5.3 In accordance with the Gambling Commission's Guidance for Licensing Authorities, we intend to designate the Hampshire County Council Child Protection Committee, Hampshire County Council for this purpose.
- 5.4 This body has countywide responsibility, is subject to democratic accountability and is currently the body that has become a responsible authority under the Licensing Act 2003.
- 5.5 The Responsible Authorities under the Gambling Act 2005 are:

- Fareham Borough Council Licensing Authority
- The Gambling Commission;
- The Chief Constable, Hampshire Constabulary
- Hampshire Fire and Rescue Service
- Fareham Borough Council Planning and Environmental Services Unit
- Hampshire Child Protection Committee, Hampshire County Council Social Services Section
- H.M. Revenue & Customs

Subject to any other person being prescribed in Regulations made by the Secretary of State. The contact addresses for these authorities are attached at **Appendix B**.

## 6 Interested Parties

- 6.1 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:
- 6.2 “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)”
- 6.3 We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 6.4 Our principles will be that we will adopt the principles of natural justice and decide each case on its merits. We will not apply a rigid rule to our decision making but will apply local knowledge and integrity to each decision.
- 6.5 We will consider the examples of consideration provided in the Gambling Commission’s Guidance to Licensing. We will also consider the Guidance that “has business interests “is given its widest possible interpretation and should include partnerships, charities, faith groups and medical practices.
- 6.6 The Gambling Commission has recommended that we state that interested parties include trade associations, residents and tenants associations. We will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the provisions of the Act.

- 6.7 Interested parties under paragraph 6.1 (c) above can be persons who are democratically elected such as a ward Councillor, M.P. etc. No specific evidence of being asked to represent an interested party will be required as long as the Councillor / MP. etc. represents the ward likely to be affected. Other than this, we will require any other person acting under paragraph 6.1 (c) above to be nominated in writing by the appropriate interested parties at paragraph 6.1 (a) or (b) above.
- 6.8 When considering whether persons are interested parties in relation to any individual application we will consider:
- the size of the premises;
  - the nature of the premises;
  - the distance of the premises from the location of the person making the representation;
  - the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
  - the nature of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for us to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults
  - persons with business interests that could be affected
- 6.9 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. Applicants should contact the Head of Environmental Health, Fareham Borough Council in the first instance rather than approach their councillor directly.

## **7. Exchange of Information**

- 7.1 We are required to include 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 ourselves 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.
- 7.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.
- 7.3 We will also have regard to the Guidance issued by the Gambling Commission to Licensing Authorities, as well as any future relevant

regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7.4 Should any protocol on information exchange be established in the future, such protocols will be publicly available.

## **8. Licensing Authority Functions**

8.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- 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 7 above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation of such activity will be the responsibility of the Gambling Commission via Operator Licences.

8.3 In accordance with the Act and Guidance, this authority will:

- Refer the decision whether to make a resolution not to issue casino licences within the Borough to full Council.
- Refer approval of this three-year licensing policy to Full Council
- Refer any delegated power under forthcoming Regulations to set fees to Executive.

- Delegate all decisions relating to premises licences to the Licensing Committee.
- Invite the Licensing Committee to further delegate decision making to a Sub-Committee or officers in accordance with the law and guidance.

## **9. Fees**

- 9.1 Premises Licence fees are set within the prescribed maximum levels in accordance with The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 and will be limited to cost recovery. Fees for Permits and other services are set by the Secretary of State.
- 9.2 In accordance with section 193 of the Act, a premises licence will be revoked if the licence holder fails to pay the relevant annual fee (required under section 184), unless the failure to pay can be explained by an administrative error.
- 9.3 Under schedule 13, section 17 of the Act, the council will also cancel any gambling permit if the holder fails to pay the annual fee, unless the failure to pay can be explained by an administrative error.

## **PART B - Promotion of the Licensing Objectives**

### **10. Preventing Gambling from being a Source of Crime or Disorder, Being Associated with Crime or Disorder or being used to Support Crime**

- 10.1 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Their guidance does however envisage that the licensing authority should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- 10.2 Therefore, where an area has known high levels of organised crime, we 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. Responsible authorities would however have the right to make representations with regard to such premises.
- 10.3 We are aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. It should be noted that nuisance is not a Gambling Act licensing objective.
- 10.4 In considering licence applications, the council will particularly consider the following:
- The design and layout of the premises;

- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any violence, public order or policing problem if the licence is granted.

## **11. Ensuring that Gambling is Conducted in a Fair and Open Way**

This licensing authority is aware that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed by the operator and personal licensing system.

## **12. Protecting Children and other Vulnerable Persons from being Harmed or Exploited by Gambling**

12.1 We note the Gambling Commission Guidance to Local Authority's states that this objective relates to 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.

12.2 We will therefore consider, as suggested by the Gambling Commission's Guidance, whether specific measures are required at individual premises to promote the licensing objectives.

12.3 Appropriate measures may include supervision of access points, segregation of areas etc.

12.4 We will also take account of the Codes of Practice regarding this objective in relation to specific types of premises.

12.5 In reference to the term "vulnerable persons" we note that the Gambling Commission or statute law is not seeking to offer a definition but the Commission states that "it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people who are 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."

12.6 This licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should a practical definition

prove possible in future then this policy statement will be updated with it, by way of a revision.

### 13. Other Considerations

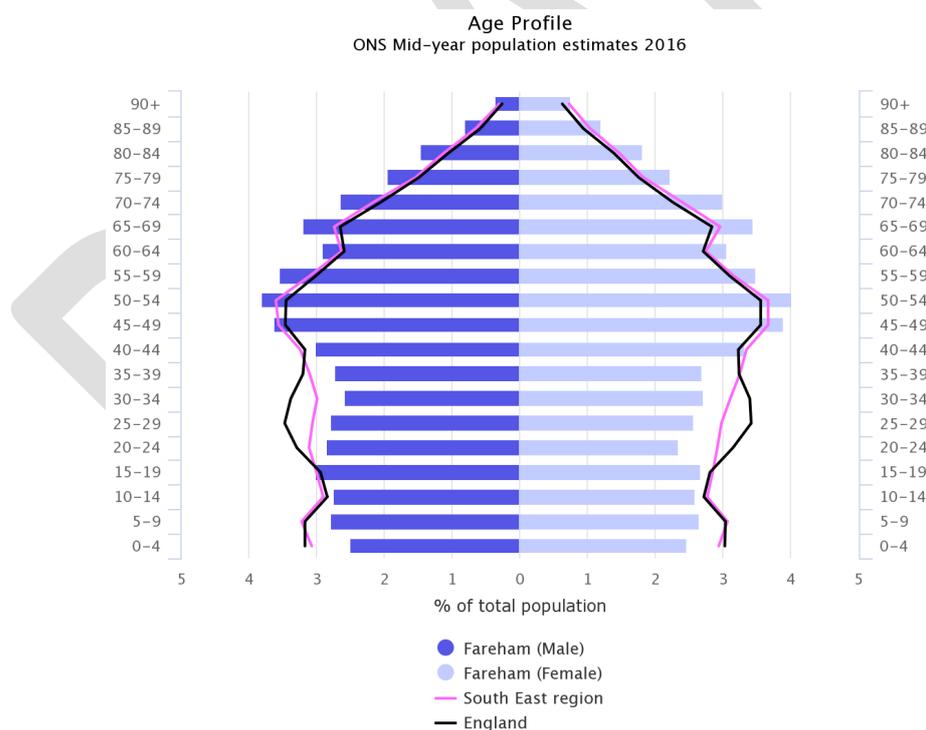
The licensing authority will not reject applications for premises licenses where relevant objections can be dealt with through the use of conditions. In determining applications for premises licences and permits, we will request as much information as it requires to be satisfied that all the requirements set out at section 153 of the Act are met.

### 14. Profile of Fareham

14.1 Fareham is situated in the County of Hampshire and has an estimated population of 114,799. Like most of the country, the number of people living in the Borough has grown and is predicted to continue to do so.

14.2 It is located in an area of some 30 square miles along the south coast of England between Portsmouth and Southampton

14.3 The population profile is illustrated below:



14.4 Between 2001 and 2011 there has been a decline in the percentage of the working age population from 63.0% to 62.2%. There has been a particularly large decline amongst young adults aged 25-39 (from 20.2% to 16.0%). (Information from Census 2011).

- 14.5 Fareham is a thriving business area with low unemployment. Many of Fareham's businesses are of local origin with a high survival rate from start-up. The growth in jobs at Whiteley, Segensworth and the Solent Business Park has reduced the number of residents commuting to work elsewhere. The proportion of Fareham's working age population that are in work is higher than both the regional and national rates and the average annual salary for a full time worker living in Fareham is significantly higher than national average earnings.
- 14.6 The health of the people in Fareham is generally better than the England Average. Life expectancy for both men and women is higher than the England average. and deprivation lower than average (Public Health England Health Profile 2018). Visit [www.healthprofiles.info](http://www.healthprofiles.info) for more area profiles, more information and interactive maps and tools.
- 14.7 Fareham is not a tourist town. It has no seaside resort or built up frontage. There have been no applications for bingo halls, amusement arcades or casinos. Its night time economy consists mainly of restaurants and public houses.
- 14.8 The majority of Gambling permits in place are for Betting shops and the number of these in the Borough has remained fairly constant in recent years, currently there are 7 in the Borough. These are mainly located within defined commercial centres.

## **15. Money Laundering**

- 15.1 The council requires applicants and licence holders to conduct an assessment of the risks of their business being used for money laundering and terrorist financing. Such risk assessment must be appropriate and must be reviewed as necessary in the light of any changes in circumstances, including the introduction of new technology, new methods of payment by customers, changes in the customer demographic or any other material changes, and in any event reviewed at least annually.
- 15.2 As a gambling business you have a responsibility to uphold the three licensing objectives set out in the Act. The first of those licensing objectives is to prevent gambling being a source of crime or disorder, being associated with crime and disorder, or being used to support crime.
- 15.3 Money laundering in the gambling sector takes two main forms:
- exchanging money acquired criminally for money that appears to be legitimate or 'clean' by gambling on low risk outcomes; and
  - the use of criminal proceeds to fund gambling as a leisure activity (so called criminal or 'lifestyle' spend).

15.4 You should report money laundering to the National Crime Agency and, where appropriate consent is requested, wait for such consent to deal with a transaction or wait until a set period has elapsed before proceeding.

15.5 Further information on how to meet your money laundering responsibilities can be found on the Gambling Commission website.

## **16. The Proceeds of Crime Act 2002**

16.1 POCA creates several principal offences that apply to everyone and criminalise any involvement in the proceeds of any crime if the person knows or suspects that the property is criminal property. These offences relate to the concealing, disguising, converting, transferring, acquisition, use and possession of criminal property, as well as an arrangement which facilitates the acquisition, retention, use or control of criminal property. For example, in the gambling industry, this may involve taking cash, cheque, or card payments, based on funds which are the proceeds of crime, in the form of a bet or wager or holding money on account for a customer.

16.2 The Gambling Commission has produced guidance for operators on duties under the Proceeds of Crime Act.

## **PART C – Premises Licences**

### **17. General Principles**

17.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions that will be detailed in regulations issued by the Secretary of State.

17.2 We, as the licensing authority, will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.

17.3 This licensing authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think 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 this statement of licensing policy

17.4 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid

reason to reject applications for premises licences “. Except in respect of a Casino resolution and that unmet demand is not a criterion for a licensing authority.

- 17.5 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.
- 17.6 We will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 17.7 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 17.8 This licensing authority takes particular note of the Gambling Commission’s Guidance for Local 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.
  - Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and the ability to comply with the requirements of the Act. But in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.
- 17.9 We also note that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to “the premises” are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling.

- 17.10 Subject to future case law, we agree with this interpretation that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the licensing authority can, if necessary, inspect it fully, as can other responsible authorities, with inspection rights under the Act.
- 17.11 This licensing authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can be considered.
- 17.12 We will, in accordance with the Gambling Commission's Guidance for Local Authorities, 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.
- 17.13 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, as a result of this consultation or otherwise, regarding such areas where gambling premises should not be located, this policy statement will be updated.
- 17.14 It should be noted that any such future policy will 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 potential concerns can be overcome.
- 17.15 This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including the statutory planning regime.
- 17.16 This council acting as a licensing authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of an application for a Premises Licence.
- 17.17 We will though, carefully consider any concerns about licensing conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 17.18 The Planning Department are a responsible authority under this Act and can make representations should they desire, otherwise the two regimes will be properly separated.
- 17.19 Premises licences granted must be reasonably consistent with the licensing objectives. In promoting these objectives, we have considered the Gambling Commission's Guidance to local authorities and make the following observations:

## 18. Local Area Risk Assessments

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

18.2 The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstance, including those identified in this policy.
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

18.3 The council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather.

18.4 In any case the local risk assessment should show how vulnerable people including people with gambling dependencies, are protected.

18.5 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the staffing of premises affect this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
  - The provision of signage and documents relating to games rules, gambling care providers and other relevant information to be provided in both English and the other prominent first language for that locality.
  - Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for ambling in reliance on the licence.
- 18.6 Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions, or to refuse the application.
- 18.7 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

## **19. Conditions on Premises Licences**

- 19.1 Any conditions we attach 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.
- 19.2 The authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises, the authority may consider attaching individual conditions related to the licensing objectives
- 19.3 There are specific observations made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to way in which the licensing objectives can be met effectively.
- 19.4 We will, where considered necessary, also consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises

to promote the licensing objectives, in accordance with Gambling Commission Guidance.

19.5 We will also ensure that where Category A to C gaming machines are on offer in premises to which children are admitted, other than premises licensed for the supply of alcohol under the Licensing Act 2003;

- 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 these 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 years of age.

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

19.7 We are aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.

19.8 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter

19.9 It is noted that there are conditions which the licensing authority cannot by law 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

## **20. Door Supervisors**

- 20.1 The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 20.2 Door supervisors at casinos and bingo premises who are contract staff are required to be licensed by the Security Industry Authority; however, in house supervisors are exempt from this requirement.
- 20.3 This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises which are that a book is maintained in which is recorded;
- the identity of the door staff deployed
  - the time they commenced duty and left duty, and
  - any incidents that they dealt with each day, and such a book shall be maintained and available for inspection for a period of 3 months from the date of the record entry.

## **21 Adult Gaming Centres (AGC)**

- 21.1 Adult gaming centres are a category of premises introduced by the Act that are most closely related to what are commonly known as adult only amusement arcades seen in many town centres.
- 21.2 Persons operating an AGC must hold a gaming machines general operating licence from the Gambling commission and obtain a premises licence from the council.
- 21.3 Under the Act a premises holding an adult gaming centre licence will be able to make a number of category B, C and D gaming machines available. No person under 18 will be permitted to enter such premises and no alcohol shall be permitted to be consumed on the premises.
- 21.4 No customer shall be able to access the premises directly from any other (or split) premises in respect of which a licence issued under part 8 of the Act, or a permit issued under schedule 10, 12 or 13 to the Act, has effect.
- 21.5 The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in these premises. The council will expect applicants to satisfy the council that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.
- 21.6 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commission codes of Practice

or by the applicant, the council may consider licence conditions to address such issues.

## **22. Licensed Family Entertainment Centres (FECs)**

- 22.1 Licenced family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.
- 22.2 Licenced family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place to children do not access the areas where the category C machines are located.
- 22.3 Where category C or above machines are available in premises to which children are admitted then the council will ensure that :
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than thorough a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the council may insist on a permanent barrier of at least 1 metre high;
  - only adults are admitted to the area where the machines (category C are located;
  - access to the area where the machines are located is supervised at all times;
  - the area where the machines are located is arranged so that it can be observed by staff; and
  - at the entrance to, and inside any such area there are prominently displayed noticed indicated that access to the area is prohibited to persons under 18.
- 22.4 The council 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 ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 22.5 The council will expect 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.
- 22.6 The efficiency of such policies and procedures will each be considered on their merits; however, they may include:
- appropriate measures and training for staff regarding suspected truant children on the premises; measures and training covering

how staff would deal with unsupervised very young children being on the premises;

- measures and training covering how staff would deal with children causing perceived problems on or around the premises;
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should cover both the interior and the entrance working to latest Home office standards and to the satisfaction of Hampshire police and the council. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and local authority must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation.

22.7 Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Disclosure and Barring Service to determine whether their staff need to be DBS checked.

22.8 The council will refer to the Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The council will also make itself aware of the mandatory or default conditions and any Gambling commission codes of Practice on these premises licences.

22.9 We will, in accordance with the Gambling Commission's guidance, refer to the Commission, and be aware of any conditions that apply to operating licences covering the way in which the area containing the Category C or higher machines, should be delineated.

22.10 This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## **23 Casinos**

This licensing authority does not have an existing licensed casino within the Borough. We have not submitted a proposal for a premises licence for any new type of casino to the Independent Casinos Advisory Panel. The Authority has passed a No Casino resolution

## **24. Betting machines**

24.1 It is desirable that the difference between a gaming machine and betting machine is understood. A machine is not a gaming machine if it is designed or adapted for use to bet on future real events.

24.2 Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These “betting machines” are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits.

24.3 Such betting machines merely automate the process which can be conducted in person and therefore do not require regulation as a gaming machine.

24.4 However, where a machine is made available to take bets on virtual races, that machine is a gaming machine and does count towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

24.5 Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino).

24.6 In accordance with the Gambling Commission’s Guidance for local authorities, when considering the number / nature / circumstances of betting machines that a casino operator wishes to offer, we will consider;

- 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 persons.”

## 25. Bingo

25.1 This licensing authority notes that that the Gambling Commission Guidance states; “It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

- all such machines are located in an area of the premises 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 the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- Children will not be admitted to bingo premises unless accompanied by an adult.

25.2 We note that under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.

25.3 The Gambling Commission has provided Guidance for Licensing Authorities and licence Conditions and Code of Practice which are applied to Operator's Licences. The council will take this into consideration when determining licence applications for bingo premises.

25.4 Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission Code of Practice or the applicant, the council may consider licence conditions to address such issues.

## **26. Betting Premises**

We note that the Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which require licensing. This section of our policy discusses off-course betting, that is betting that takes place other than at a track in what is currently known as a licensed betting office. Tracks are discussed in the following section. It should be noted that there are also betting offices on tracks, that have a separate premises licence from the track licence.

## **27. Tracks**

27.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totalisator" or "tote"), and also general betting, often known as "fixed-odds" betting.

27.2 There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of a track.

- 27.3 Special rules apply to applicants for a premises licence in relation to a track. Most importantly, as noted above, the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licences then authorises anyone upon the premises with an operating licence to offer betting facilities.
- 27.4 We are aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission guidance, this authority will especially consider the impact of the third licensing objective.
- 27.5 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 27.6 We will expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities.
- 27.7 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 27.8 Appropriate licence conditions may include:
- Proof of age schemes
  - CCTV
  - Door supervisors
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - The location of gaming machines
  - Self barring Schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare

## **28. Condition on Rules being Displayed**

The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

## **29. Applications and Plans**

This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to licence they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

## **30. Travelling Fairs**

- 30.1 We note that we as the licensing authority are required to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 30.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 30.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, 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 other departments of the council and its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **31. Provisional Statements**

- 31.1 This licensing authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered

for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.

- 31.2 In terms of representations about premises licence applications, following 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:
- a) which could not have been raised by objectors at the provisional licence stage; or
  - b) which is in the authority’s opinion reflect a change in the operator’s circumstances.
- 31.3 This authority has noted the Gambling Commission’s Guidance that “A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.”

## **PART D – Permits, Notifications and Lottery Registrations**

### **32. Unlicensed Family Entertainment Centre Gaming Machine Permits**

- 32.1 Family entertainment centres (FECs) will perhaps be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons.
- 32.2 Unlicensed FECs will be able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.
- 32.3 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 as required by section 238.
- 32.4 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed FEC and, if the applicant is an individual, he must be aged 18 or over. Applications for a permit cannot be made if a premises licence is in effect for the same premises.

- 32.5 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 32.6 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues."
- 32.7 The Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....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. (24.7)
- 32.8 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 32.9 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.
- 32.10 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

### **33. Gaming Machine Permits in Premises Licensed for the Sale of Alcohol**

- 33.1 There is provision in the Act for premises licensed under the Licensing Act 2003 for the sale of alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. Licence holders merely need to notify the licensing authority.
- 33.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with); the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.
- 33.3 If a premises licence holder wishes to have more than 2 machines, then they need 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 under section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 33.4 This licensing authority considers that “such matters” will be decided on a case by case individual basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or 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.
- 33.5 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 on the machines or in the premises 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.
- 33.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with, as an Adult Gaming Centre premises licence.
- 33.7 It should be noted that we as 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 to a permit.
- 33.8 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.

### **34. Prize Gaming Permits**

- 34.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 34.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- a) that they understand the limits to stakes and prizes that are set out in Regulations;
  - b) and that the gaming offered is within the law.
- 34.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 34.4 It should be noted that there are conditions in the Gambling Act 2005 with 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.

### **35. Club Gaming and Club Machine Permits**

- 35.1 Bona Fide Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit.
- 35.2 The Club Gaming Permit will enable the premises to provide 3 gaming machines of categories B, C or D, equal chance gaming and games of chance as set-out in regulations still to be published.
- 35.3 A Club Gaming machine permit will enable the premises to provide 3 gaming machines of categories B, C or D.

- 35.4 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968.
- 35.5 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."
- 35.6 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
  - b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - d) a permit held by the applicant has been cancelled in the previous ten years; or
  - e) an objection has been lodged by the Commission or the police.
- 35.7 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).
- 35.8 The Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- a) 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."
- 35.9 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.

## 36. Temporary Use Notices

- 36.1 Part 9 of the Act sets out the position in relation to temporary use notices. These 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 would include hotels, conference centres, and sporting venues.
- 36.2 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted. 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.
- 36.3 We will apply the Gambling Commission Guidance which states: "In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, the licensing authority will need to consider whether different units are in fact different "sets of premises", given that they may be occupied and controlled by different people. This is a new permission and licensing authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises." In our consideration of Temporary Use Notice applications.

## 37. Occasional Use Notices:

We have 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, however, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## 38. Small Society Lottery Registrations

- 38.1 A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part.
- 38.2 The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Other exempted lotteries are:
- (a) incidental lotteries – must be held at an event (either commercial or non-commercial), eg a charity dinner, exhibition, festival, fete.

- (b) Private lotteries
  - Private society lotteries – only members of the society and those on the society premises can participate in the lottery
  - Work lotteries – only people who work together on the same premises may participate
  - Residents lotteries – only people who live at the same premises may participate
- (c) Customer lotteries – only customers at the business premises may participate.

38.3 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These will be administered by the council for small societies who have a principal office in Fareham district and want to run such a lottery.

38.4 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.

38.5 To be 'non-commercial' a society must be established and conducted:

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

## **PART E – Enforcement**

39.1 Licensing authorities are required by regulations 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.

39.2 This licensing authority's principles are that we will be guided by the Gambling Commission's Guidance for Local Authorities and our policy will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and

- Targeted: regulation should be focused on the problem, and minimise side effects

39.3 This licensing authority will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based approach. Generally given the profile of the local area this will be a light touch approach, however the Authority will investigate any complaints or issues brought to its notice as necessary given the circumstances in each case.

39.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions that it authorises.

39.5 The Gambling Commission will be the enforcement body for Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission for investigation.

39.6 This licensing authority will also keep itself informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

39.7 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest criteria referred to in the Code for Crown Prosecutors issued in accordance with the Prosecution of Offences Act 1985.

39.8 Any such prosecution will be commenced and conducted by the Head of Environmental Health in accordance with the powers delegated to him by the council.

#### **40. Reviews**

40.1 A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the licensing authority to review a particular licence.

40.2 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted, but the review itself, if necessary will be heard by elected members.

40.3 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.

40.4 An application for a review may be (but need not be) rejected if the licensing authority thinks that the grounds on which the review is sought:

- a) are not relevant to the principles that must be applied by the licensing authority in accordance with section 153. If the application raises issues that are not relevant to the Commission guidance/codes of practice, this policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling in so far we think that permission is in accordance with the matters set out in that section. Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;
- b) the grounds are frivolous;
- c) the grounds are vexatious;
- d) the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- e) are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
- f) are substantially the same as representations made at the time the application for a premises licence was considered? In these circumstances, we will consider the period of time that has passed since the representations were made, but the underlying requirement is that we should not review the licence on the basis of the same arguments considered on the grant of the premises licence

## APPENDIX A

### SCHEDULE OF CONSULTEES TO THIS DRAFT POLICY STATEMENT

- All Elected Councillors, Fareham Borough Council
- Director of Planning & Development, Fareham Borough Council
- The Head of Legal Services, Southampton City Council
- The Head of Environmental Health, Fareham Borough Council
- The Gambling Commission Headquarters Policy Section
- The Gambling Commission Regional Inspector (Hampshire)
- The Chief Constable, Hampshire Police
- Hampshire Fire and Rescue Service Authority
- Head of Child Protection, Hampshire County Council
- H.M. Revenue & Customs
- Neighbouring Authorities
- The British Casino Association
- Casino Operators' Association of the UK
- Business In Sport & Leisure
- Racecourse Association Limited
- British Amusement Catering Trade Association
- British Holiday & Home Parks Association
- Community Trade Union
- Association of British Bookmakers
- All persons who hold Betting Office and Bookmakers Permits in Fareham Borough
- Representatives of persons who hold Society Lottery Registrations in Fareham Borough
- Clubs and Institute Union
- Gaming Machine Suppliers who regularly apply for Gaming Permits in Fareham Borough
- Society of Independent Brewers
- Representatives of Premises Licence Holders in Fareham
- Representatives of Club Premises Certificate holders in Fareham
- Hampshire County Council Trading Standards
- GamCare
- Responsibility in Gambling Trust
- Gam – Anon
- Residents Associations and Tenant Groups.
- General advertisement on the Council's website.

## APPENDIX B

### SCHEDULE OF RESPONSIBLE AUTHORITIES GAMBLING ACT 2006

#### Hampshire Constabulary

Chief Officer of Police  
Fareham Police Station  
Quay Street  
Fareham  
PO16 0NA

Tel: 0845 045 45 45 (central number)

#### Hampshire Fire & Rescue Service

Service Delivery (Community Safety Delivery)  
Protection Department  
Southsea Fire Station  
Somers Road  
Southsea  
PO5 4LU

Tel: 023 92855180

Email: : [Csprotection.admin@hantsfire.gov.uk](mailto:Csprotection.admin@hantsfire.gov.uk)

Fax: 023 92885175

Website: [www.hantsfire.gov.uk](http://www.hantsfire.gov.uk)

#### Pollution & Environmental Protection Team

Pollution & Environmental Protection Team  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100

Email: [licensing@fareham.gov.uk](mailto:licensing@fareham.gov.uk)

Fax:01329 821755

Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

#### Health & Safety Team

Health & Safety Team  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100

Email: [health@fareham.gov.uk](mailto:health@fareham.gov.uk)

Fax:01329 821755

Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

Planning Authority  
Department of Strategic Planning and Environment  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100  
Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

Fax:01329 821500

The Local Weights and Measures Authority  
Head of Safety & Standards  
The Trading Standards Service  
Montgomery House  
Monarch Way  
Winchester  
SO22 5PW

Tel 01962 833620

Email: [liquor.licensing@hants.gov.uk](mailto:liquor.licensing@hants.gov.uk)  
Website: [www.hants.gov.uk](http://www.hants.gov.uk)

Safeguarding Unit Children's Services  
HCC CSD Safeguarding Unit  
Falcon House  
Monarch Way  
Winchester  
SO22 5PL

Tel: 01962 876222

Email: [child.protection@hants.gov.uk](mailto:child.protection@hants.gov.uk)  
Website: [www.hants.gov.uk](http://www.hants.gov.uk)

The Licensing Team  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100  
Email: [licensing@fareham.gov.uk](mailto:licensing@fareham.gov.uk)

Fax:01329 821755  
Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

Public Health Licensing Manager  
Public Health Department  
1st Floor, Room 153  
Elizabeth II Court, South  
Hampshire County Council  
Winchester  
SO23 8TG

Tel: 01329 236100

Use Fax no. 01962 847644 and  
address fax exactly as follows  
(including email address):

For the attention of [publichealth.licensing@hants.gov.uk](mailto:publichealth.licensing@hants.gov.uk)  
Licensing  
Public Health Manager  
Public Health Department  
1st Floor, Room 153  
Elizabeth II Court, South  
Hampshire County Council  
Winchester  
SO23 8TG

Email: [publichealth.licensing@hants.gov.uk](mailto:publichealth.licensing@hants.gov.uk)

DRAFT