



# Haverling

LONDON BOROUGH

## LICENSING COMMITTEE AGENDA

**7.30 pm**

**Tuesday  
29 September 2015**

**Town Hall, Main Road,  
Romford**

Members 11: Quorum 4

**COUNCILLORS:**

**Conservative  
(5)**

Frederick Thompson  
(Vice-Chair)  
Linda Trew (Vice-Chair)  
Robert Benham  
Wendy Brice-Thompson  
Philippa Crowder

**Residents'  
(3)**

Jody Ganly  
Reg Whitney  
John Wood

**East Haverling  
Residents'  
(1)**

Linda Van den Hende  
(Chairman)

**UKIP  
(1)**

Phil Martin

**Independent  
Residents'  
(1)**

Keith Roberts  
(Vice-Chair)

**For information about the meeting please contact:**

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## **Protocol for members of the public wishing to report on meetings of the London Borough of Havering**

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

## AGENDA ITEMS

### 1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

### 2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) - receive.

### 3 DISCLOSURE OF PECUNIARY INTERESTS

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.*

### 4 MINUTES (Pages 1 - 4)

To approve as a correct record the minutes of the meeting of the Committee held on 13 May 2015, and to authorise the Chairman to sign them.

### 5 PRESENTATION ON A RECENT VISIT TO HAVERING REGARDING THE NIGHT TIME ECONOMY

The Committee is to receive a presentation.

### 6 APPROVAL TO CONSULT ON THE DRAFT HAVERING STATEMENT OF GAMBLING POLICY FOR THE GAMBLING ACT 2005 (Pages 5 - 42)

Report attached

### 7 UPDATE ON THE STATEMENT OF LICENSING POLICY CONSULTATION

The Committee is to receive a presentation.

### 8 PRESENTATION UPDATE ON RECENT CHANGES TO LEGISLATION AFFECTING LICENSING

The Committee is to receive a presentation.

**9 URGENT BUSINESS**

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

**Andrew Beesley  
Committee Administration  
Manager**

**MINUTES OF A MEETING OF THE  
LICENSING COMMITTEE  
Town Hall, Main Road, Romford  
13 May 2015 (6.00 - 7.20 pm)**

**Present:**

**COUNCILLORS**

<b>Conservative Group</b>	Viddy Persaud (Vice-Chair), Wendy Brice-Thompson and Philippa Crowder
<b>Residents' Group</b>	Jody Ganly, Reg Whitney and John Wood
<b>East Havering Residents' Group</b>	Linda Van den Hende (Chairman)
<b>UKIP Group</b>	Phil Martin
<b>Independent Residents Group</b>	Keith Roberts (Vice-Chair)

Councillors Garry Pain and Robert Benham sent apologies for absence.

The Chairman reminded Members of the action to be taken in an emergency.

**24 MINUTES**

The minutes of the meeting held on 18 November 2014 were agreed as a correct record and signed by the Chairman.

**25 APPROVAL TO CONSULT ON THE DRAFT OF HAVERING'S NEW STATEMENT OF LICENSING POLICY FOR THE LICENSING ACT 2003**

At its meeting on 18 November 2014, the Committee was informed that the Statement of Licensing Policy was reviewed every five years and a new one would need to be in place by January 2016

The current Statement of Licensing Policy had been reviewed and rewritten to include good practice, current guidance, experience from implementing the Act, input from a joint Topic Group of members of the Licensing Committee and Towns and Communities Overview and Scrutiny Sub Committee and the Havering Licensing Strategy 2014.

The report noted that in exercising their functions under the Licensing Act 2003, the Licensing Authority must have regard to the following four licensing objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The report informed that the Council must consult on the draft policy before the final version was approved by Full Council. Section 5 of the Act 2005 sets out the statutory consultees. It was proposed that the consultation be aimed at a wider audience including not only all responsible authorities and current licensees and their representative bodies but also members of the public who could comment through local libraries and the internet. It was proposed that there be a three month consultation period starting on the 1 June 2015 and finishing on the 31 August 2015.

The report recommended that the Committee agree that the draft Statement of Licensing Policy set out in Annexe A be subject to public consultation.

The Chairman commended members of Joint Topic Group for the work undertaken with officers.

The Chairman expressed her appreciation to the Public Protection, Licensing and Health and Safety Divisional Manager for supporting to the Topic Group.

In response to a member enquiry, the Committee was advised that the consultation would be carried out on-line but if hard-copy papers were requested, then they would be made available.

**RESOLVED:**

The Committee agreed that the draft Statement of Licensing Policy be subjected to public consultation.

26 **PRESENTATION UPDATE ON RECENT CHANGES TO LEGISLATION AFFECTING LICENSING**

The Committee received an update on recent changes to Legislation affecting Licensing that came in to effect from April 2015:

That Committee was informed that Live Music & Recorded Music no longer required a licence, if it took place between 08:00 and 23:00 hours at a premises which had a Premises Licence for “on supply of alcohol”, and the audience was no more than 500 people.

The Committee noted that Live Music no longer required a licence, if it was amplified live music at a workplace provided the audience was no more than 500 people between 08:00 and 23:00 hours.

The Licensing Specialist informed the Committee that Exempt Premises no longer required a licence if music was incidental – music that is incidental to other activities that was not classed as regulated entertainment, between 08:00 and 23:00 00 hours in the following venues:

- Places of public worship, village halls, church halls, & other similar buildings
- Schools
- Hospitals
- Local authority premises

A licence was no longer required for Plays or a Performance of Dance if the event took place between 08:00 and 23:00 hours and the audience was no more than 500 people.

The Committee was informed that a licence was no longer required for an Indoor Sporting Event that took place between 08:00 and 23:00 00 hours with an audience that was no more than 1000 people.

The Committee noted a Personal License that permitted a person to sell alcohol or to authorise another person to sell alcohol that used to be valid for 10 years now no longer expired except with the persons death, Surrender or Revocation.

With effect of January 2016, Temporary Event Notices (TENs), a premises would be allowed 15 Temporary Event Notices per year (currently a premises was permitted 12).

A premises would still only have 21 days of Temporary Event Notices per year.

A Licence or Temporary Event Notice was still required for following:

- The supply of alcohol by retail
- Boxing, Wrestling and Mixed Martial Arts
- Films or Exhibit Moving Pictures – in public or in private if charged for entry with intention to make profit – includes making money for charity

Whilst an exemption to films licence was applicable to the following venues:

- Places of public worship, village halls, church halls, & other similar buildings
- Education
- Incidental film – incidental to other activities that aren't classed as regulated entertainment.
- Television broadcasts

The Committee **noted** the presentation.

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**Chairman**



**LICENSING COMMITTEE**

**29 September 2015**

<b>Subject Heading:</b>	Approval to consult on the draft of Havering’s new Statement of Gambling Policy for the Gambling Act 2005
<b>CMT Lead:</b>	Andrew Blake Herbert
<b>Report Author and contact details:</b>	Trudi Penman Trudi.penman@havering.gov.uk 01708 432718
<b>Policy context:</b>	Review of the current Statement of Gambling Policy having regard to the changes in legislation..
<b>Financial summary:</b>	No significant changes.

**The subject matter of this report deals with the following Council Objectives**

- Havering will be clean and its environment will be cared for [x]
- People will be safe, in their homes and in the community [x]
- Residents will be proud to live in Havering [x]

**SUMMARY**

This report seeks authorisation of the Licensing Committee to commence a consultation process on the draft Statement of Gambling Policy. The consultation will run from the 30th September 2015 to 31st October 2015.

**RECOMMENDATIONS**

The Licensing Committee notes the details of this report and agrees that the draft Statement of Gambling Policy set out in Annexe A be subject to public consultation.

## REPORT DETAIL

1.0 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a Statement of Gambling Policy that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.

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

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

3.0 The current Statement of Gambling Policy has been reviewed and rewritten to include good practice, current guidance and experience from implementing the Act.

4.0 The Council must consult on the draft policy before the final version is approved by full Council. It is proposed that the consultation be aimed at a wider audience including not only all responsible authorities and current licensees and their representative bodies but also members of the public who may comment through the internet. It is proposed that there be a 1 month consultation period starting on the 30th September 2015 and finishing on the 31st October 2015.

5.0 Further, the Council can only publish its Statement of Gambling Policy if it has paid due regard to guidance issued by the Government and Gambling Commission.

6.0 The Licensing Authority must give due weight to the representations of those consulted before finalising the Policy Statement for publication. In determining what weight to give particular representations, the factors to be taken into account include:

- Who is making the representation (what is their expertise or interest)
- What their motivation may be for their views.
- How many other people have expressed the same or similar views.
- How far the representations relate to matters the Licensing Authority should include in its policy
- Reasoned cases.

## IMPLICATIONS AND RISKS

## **Financial implications and risks:**

There is a statutory need to have a policy on Gambling, and that policy must adhere to statutory guidance. There is not a lot of flexibility around the policy, and that proposed in this report meets statutory needs. The proposals do not involve the commitment of more resources, or change significantly what we do. They simply bring the policy up to date, and place more onus on the applicant.

Fees for monitoring the Gambling activity are set to recover the cost of that monitoring.

The cost of the consultation itself can be met from within existing budgets.

## **Legal implications and risks.**

Licensing Authorities must have in place a Statement of Policy and which must be reviewed every 3 years. The Statement of Policy must set out the Authority's Policy and principles to be applied in exercising its functions relating to gambling and give effect to the Gambling Act 2005. The Statement of Policy must give effect to the overriding licensing objectives of the Gambling Act 2005. The overriding licensing objectives 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, and
- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Licensing Authority must have regard to guidance to local authorities published provided by the Gambling Commission and any departure from the guidance should be explained and sustainable.

A draft of the Statement of Policy or a draft of the proposed revision, must be prepared and published for public consultation.

There is a requirement to undertake statutory consultation as set out in section 349 of the Gambling Act 2005, however, wider consultation is advised within the guidance provided by the Gambling Commission.

The public consultation period is recommended to be 12 weeks, being best practice recommended by the Department of Business, Innovation and Skills and set out in the guidance to local authorities by the Gambling Commission.

Responses to the statutory guidance must be given appropriate weight depending upon who is making the representation, relevance to the overriding licensing objectives, number of people expressing the same or similar views and the authorities own principles within its Statement of Policy.

The Statement of Policy, or its revision, cannot come into force unless it is first published on the Authority's website and a hardcopy made available for inspection for a period of 4 weeks before the date it is to come into effect. There must also be

a Notice given in a local newspaper, the Authority's website and other media specified by Regulations, on the first day that the Statement of Policy, or its Revision, is published before it comes into effect.

**Human Resources implications and risks:**

There are no human resource implications

**Equalities implications and risks:**

The draft statement of gambling policy will be informed and further refined through consultation. The consultation process should ensure that it seeks views from groups that could be impacted by the policy for example children, young persons and vulnerable members of the community. An equality impact assessment should be undertaken alongside development of the statement and appropriate activity developed where negative impact is identified on any protected characteristic.

**BACKGROUND PAPERS**

*Appendix A Statement of Gambling Policy*



# Statement of Gambling Policy

(2016-2019)

# Document Control

## Document details

<b>Title</b>	Statement of Gambling Policy
<b>Version number</b>	V0.1
<b>Status</b>	Initial draft
<b>Author</b>	Trudi Penman
<b>Lead officer</b>	Andrew Blake Herbert
<b>Approved by</b>	
<b>Review date</b>	2019

<b>Supersedes</b>	Statement of Gambling Policy
<b>Target audience</b>	Applicants, Residents, Licensing Committee, Councillors.
<b>Related to</b>	

## Version history

Version	Status	Date	Dissemination/Change
<b>V0.1</b>	Initial draft	25/08/15	

## Approval history

Version	Status	Date	Approved by
Add final version number e.g. V0.4	Add status of policy e.g. Final	Add date	Add name of approving body e.g. Cabinet

## Equality Impact Assessment record

Date	Completed by	Review date

# **Statement of Gambling Policy**

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## 1. Introduction

- 1.1 The Gambling Act 2005 (the “Act”) requires this Licensing Authority to draft, consult on and publish a Statement of Licensing Policy in relation to its responsibilities under the Act. Once published, this Policy Statement, called the Statement of Gambling Policy will be kept under constant review and, in any case, will be re-published after every three years. Before any revision of the Statement of Gambling Policy is published this Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement of Gambling Policy has been revised and is for the period 2016 – 2019.

Section 25 of the Gambling Act states that;

*Section 25 - Guidance to local authorities*

*The (Gambling) Commission shall from time to time issue guidance as to-*

*(a) the manner in which local authorities are to exercise their functions under this Act, and*

*( b) in particular, the principles to be applied by local authorities in exercising functions under this Act.”*

- 1.2 The Gambling Commission states in the introduction to its Guidance to Licensing Authorities:

‘The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions. It does not seek to impose a ‘one size fits all’ model across all licensing authorities. We recognise that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation.

This Guidance does not, therefore, attempt to fetter the discretion that licensing authorities have under the Act and it is not intended to replace their judgement in individual cases. Moreover, this Guidance cannot anticipate every set of circumstances that may arise and, as long as it has been understood and taken into account, licensing authorities may depart from it where they consider it would be right to do so. There should, however, be strong reasons for departing from this Guidance and these need to be clearly expressed and explained if a licensing authority is to avoid judicial review or challenge on appeal for failing to take this Guidance into account.’

- 1.3 This Policy, therefore, generally follows the principles laid down in the Gambling Commission’s Guidance to Licensing Authorities. The Gambling Act 2005 can be accessed via:

<http://www.legislation.gov.uk/ukpga/2005/19/contents>

and the Gambling Commission’s Guidance to Licensing Authorities may be accessed via;

<http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx>



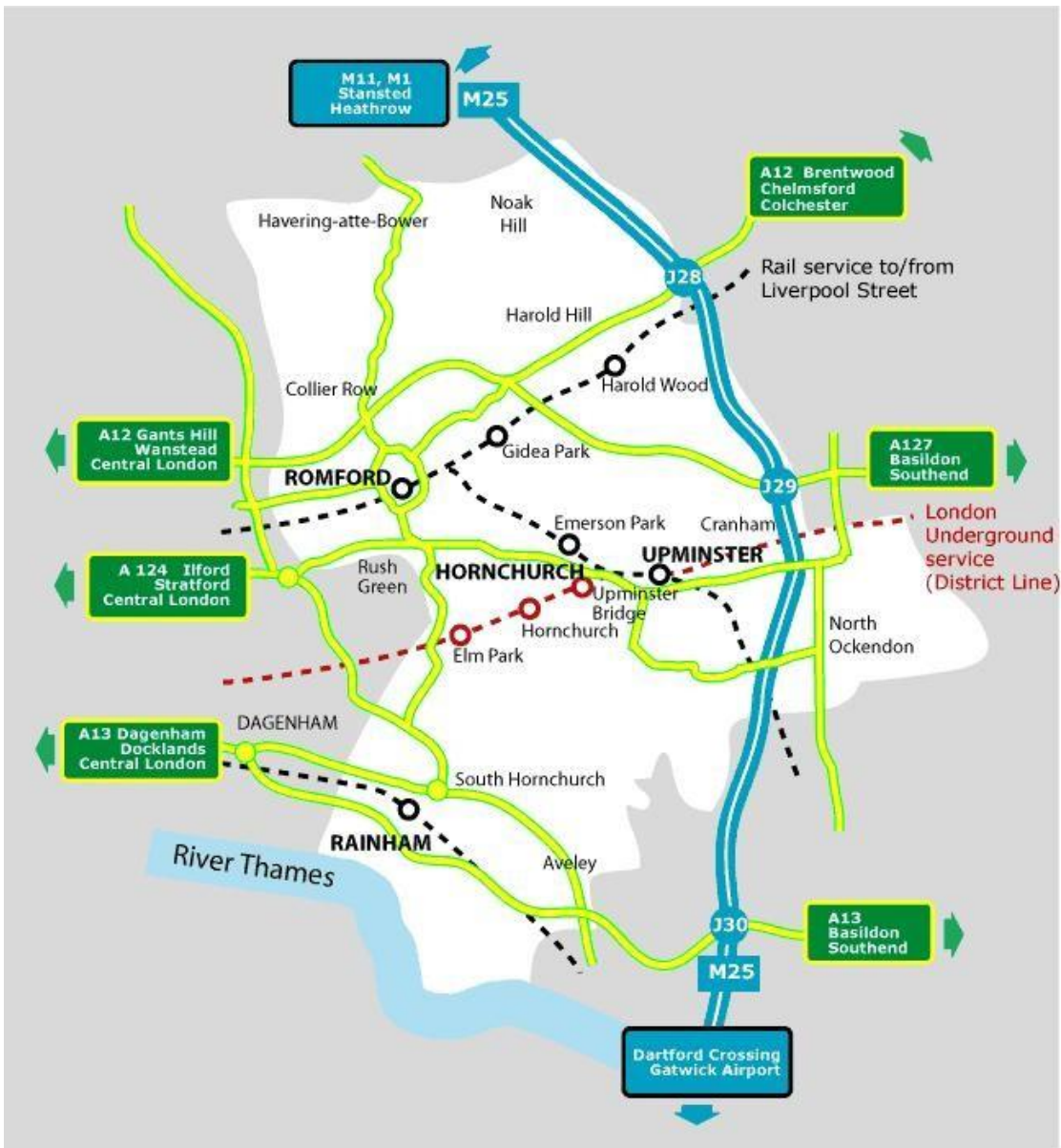
- 1.4 The Act also requires this Authority to carry out its various licensing functions so as to be reasonably consistent with the following three licensing objectives:
- preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
  - ensuring that gambling is conducted in a fair and open way
  - protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.5 As required by the Guidance issued by the Gambling Commission, in carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:-
- . in accordance with any relevant code of practice issued by the Gambling Commission,
  - . in accordance with any relevant guidance issued by the Commission
  - . reasonably consistent with the licensing objectives, and
  - . in accordance with the policy statement published by this Authority under section 349 of the Act

Nothing in this Statement of Gambling Policy will override the right of any person to make an application under this Act and have that application considered on its individual merits. Equally, nothing in the Statement of Gambling Policy will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so. This Authority will endeavour to ensure that when considering applications under this legislation it will avoid duplication with other regulatory regimes so far as possible.

- 1.6 Previous gambling legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. However, unfulfilled demand is not a criterion for a Licensing Authority in considering an application for a premises licence under the Gambling Act. Each application will be considered on its merits without regard to demand.

## **A Profile of the London Borough of Havering**

- 2.1 The London Borough of Havering is a borough with an ancient history and an exciting future. It is located on the periphery of North East London. The area has good road and rail links and boasts an 3 mile river frontage. It is currently a major centre for renewal and development.
- 2.2 Granted a royal liberty 540 years ago, the borough has held a regular street market since 1247. Today Havering is London's third largest borough, with a population of over 220,000 and an area of 11,227 hectares, of which almost over half is open green space.
- 2.3 Havering has a lively cultural scene, centred on the Queen's Theatre and the Fairkytes Arts Centre. Leisure facilities are second to none, with three recently renovated leisure centres with state-of-the-art equipment and facilities. The borough is also a great place to shop. There are 250,000 regular shoppers in Romford town centre alone. In addition to Romford there are small local shopping centres in Harold Hill, Collier Row, Hornchurch, Cranham, Upminster, Elm Park and Rainham. See map below



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### **3 Consultation**

- 3.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 3.2 The London Borough of Havering consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided as Appendix E. The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - 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.

### **4. Declaration**

- 4.1 In producing this Statement of Gambling Policy, 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.

### **5 Responsible Authorities and Interested Parties**

- 5.1 The Gambling Act 2005 allows for two different types of groups to make representations regarding applications to the Licensing Authority and also to apply to have existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”
- 5.2 The Act defines Responsible Authorities as:
- (a) a licensing authority in England and Wales in whose area the premises are wholly or partly situated,
  - (b) the Gambling Commission,
  - (c) the chief officer of police for a police area in which the premises are wholly or partly situated,
  - (d) the fire and rescue authority for an area in which the premises are wholly or partly situated,
  - (e) the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated,
  - (f) an authority which has functions by virtue of an. enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated,

- (g) a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm,
- (h) Her Majesty's Commissioners of Customs and Excise, and
- (i) any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

5.3 Under the Children Act 2004, Area Child Protection Committees (ACPC) have been replaced by Local Safeguarding Children Boards (LSCBs).

The policy of the Licensing Authority is that the 'responsible authority' in relation to the protection of children from harm (see 5.2 'g' above) will be the Council's Family and Children's Services Department and, in particular, the LSCB Manager in that Department.

5.4 Section 158 of the Act states that a person is an "Interested Party" if, in the opinion of the Licensing Authority that 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).

5.5 Should an individual wish to submit an objection to a new premises licence or submit a request for a review of an existing licence, it should be based on the licensing objectives contained within the Act (see Para 1.4). It should be noted that the Act does not include the prevention of public nuisance and anti-social behaviour as a specific licensing objective.

5.6 The Licensing Authority is required by Regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles for this Authority are that each case will be decided upon its own merits and rigid rules will not be applied to its decision making. It will consider the examples provided in the Gambling Commission's Guidance for Licensing Authorities at paragraph 6.21. It will also consider the Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

5.7 Section 158 of the Gambling Act states that an "interested party" must "live sufficiently close to the premises to be likely to be affected by the authorised activities", or "has business interests that might be affected by the authorised activities", or be a body representing persons who satisfy this criteria. The Gambling Commission recommends in its Guidance to Licensing Authorities that Interested Parties could include trade associations and trade unions, and residents' and tenants' associations. However, it fails to mention that those bodies should represent persons or businesses sufficiently close to be likely to be affected by the operation of the premises. (Gambling Commission Guidance for Local Authorities paragraph 6.21). This Authority will follow section 158 of the Act and will not generally view these bodies as interested parties

unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. they live sufficiently close or carry on a business so that they will be likely to be affected by the activities being applied for.

## **6. Exchange of Information**

- 6.1 Licensing Authorities are required to include in their Statement of Gambling Policy the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 1.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **7. Enforcement**

- 7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for Local Authorities, will comply with the 'Regulators Code', and will endeavour to be:
- . Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - . Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
  - . Consistent: rules and standards must be joined up and implemented fairly;
  - . Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - . Targeted: regulation should be focused on the problem, and minimise side effects.

This Authority will also act in accordance with its own Enforcement Policy.

- 7.3 As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This Authority will also, as recommended by the Gambling Commission's Guidance for Licensing Authorities, adopt a risk-based inspection programme.

- 7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the terms and conditions of premises licences and other permissions that they authorise. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will also be dealt with by the Gambling Commission.
- 7.6 This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## **8. Licensing Authority functions**

- 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* where premises are intended to provide gambling activity
  - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - Issue *Club Machine Permits* to *Commercial Clubs*
  - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - Register *small society lotteries* below prescribed thresholds
  - Issue *Prize Gaming Permits*
  - Receive and Endorse *Temporary Use Notices*
  - Receive *Occasional Use Notices*
  - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
  - Maintain registers of the permits and licences that are issued under these functions
- 8.2 It should be noted that local Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences. The Financial Services Authority regulates spread betting and the National Lottery Commission regulates The National Lottery

## **9 Premises licences.**

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

- 9.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is;
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the Authority’s Statement of Licensing Policy.
- 9.3 This Authority takes particular note of the Gambling Commission’s Guidance for Licensing Authorities, which states that Authorities should pay particular attention 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 this Authority is 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. The Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).
- 9.4 Clearly, there will be specific issues that the Authority will consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and 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.
- 9.5 This Authority takes particular note of paragraphs 7.7 to 7.8 and 7.26, 7.30 – 7.33 of the Gambling Commission’s Guidance to Licensing Authorities relating to the artificial sub-division of premises. It also takes note of section 152 (1) of the Act and Regulation 12(2) of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and will look very carefully at any application that may appear to breach any of these provisions. This Authority also takes particular note of the Gambling Commission’s Guidance, contained in paragraphs 19.21 – 19.25, regarding the “the appropriate licensing environment” for a premises licence. For example, where a premises is licensed to provide bingo facilities then the primary activity must be the provision of bingo, with gaming machines being an ancillary offering in the premises. This Authority also notes the Gambling Commission’s Codes of Practice Consolidated for all forms of Gambling that came into effect in August 2014.
- 9.6 It should also be noted 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. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This Authority agrees with the Gambling Commission 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 Authority can, if necessary, inspect it fully, as can other Responsible Authorities with inspection rights.



9.7 The Licensing Authority will expect compliance with the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (as amended) in relation to the submission of plans with applications.

9.8 The Regulations state that plans shall contain the following information:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

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

9.10 This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it.

9.11 Planning: The Gambling Commission Guidance to Licensing Authorities states:

'7.56 In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal...'

This Authority will not take into account irrelevant matters as per the above guidance. In addition this Authority notes the following excerpt from the Guidance:

'7.63 When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent

when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.’

- 9.12 Premises licences granted must be reasonably consistent with the licensing objectives. This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions, such as the provision of door supervisors, may be relevant.
- 9.13 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising the gambling facilities on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.
- 9.14 Local area profile- a map of this Local Authorities area has been attached as appendix D. The map contains the location of all schools, hostels and homes for vulnerable people, GP's surgeries, medical centres, hotspots of antisocial behaviour and centres for people with drug and alcohol addiction. This authority will pay particular attention to applications for the new grant of, or variations to existing, premises licences where those premises lie within areas with a concentration of schools, ASB, hostels/homes for vulnerable people and centres for people with a drug and alcohol addiction.
- 9.15 Where paragraph 9.13 applies this Authority will expect applicants to fully explain in their applications how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally. Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions, to cater for the local area in which they propose to run their business.
- 9.16 Applicants should also be aware of areas with concentrations of hostels and other types of accommodation for vulnerable people. Where they propose to make an application for the new grant of a premises licence, or a variation to an existing licence, in such areas they should explain fully in their risk assessments how they will mitigate any risks of operating gambling premises in close proximity to concentrations of housing for vulnerable people.
- 9.17 Some publicly available sources of information to assist in operators completing a Local Area Profile include:
- (a) the Crime Mapping website;
  - (b) Neighbourhood Statistics websites;
  - (c) websites or publications by local responsible authorities;
  - (d) websites or publications by local voluntary schemes and initiatives; and
  - (e) on-line mapping tools.

9.18 This Authority will expect applicants for the new grant of, or variation to an existing, licence to include full details of their risk assessment in compliance with Social Responsibility (SR) code 10.1.1 and Ordinary code provision 10.1.2 (both effective as from 6 April 2016)

9.19 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted 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 via operating and personal licences.

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

9.21 As regards the term “**vulnerable persons**” it is noted that the Gambling Commission is not seeking to offer a definition but states that ‘... it does, for regulatory purposes, assume 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.’ This Licensing Authority will consider this licensing objective on a 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. This Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues in relation to this licensing objective regarding specific premises such as casinos

9.22 Any conditions attached to licences will be proportionate and will be:

- . relevant to the need to make the proposed building suitable as a gambling facility;
- . directly related to the premises and the type of licence applied for;
- . fairly and reasonably related to the scale, neighbourhood and type of premises;

and  
reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. This Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult

gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

9.24 It is noted that because of restrictions imposed by the Gambling Act there are conditions which the Licensing Authority cannot attach to premises licences, which are:

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

9.25 The Gambling Commission advises in its Guidance for Licensing Authorities that they 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. It is noted though that there is no requirement for "in house" door supervisors at casinos or bingo premises to be licensed by the Security Industry Authority (SIA) through a specific exemption contained in Paragraph 17 of Schedule 16 to the Act. However, following clarification from the Department for Culture, Media and Sport (DCMS) and the Security Industry Authority (SIA), any contract staff employed in a Door Supervisor role will still require to be licensed by the SIA.

9.26 For premises other than "in house" staff employed at casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

9.27 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This Licensing Authority will make a door supervisor requirement only if there is clear evidence from the history of trading at the premises

that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

9.28 In relation to Adult Gaming Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended that applicants provide means to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. Such measures may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas

9.29 In relation to (licensed) Family Entertainment Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended that applicants are able to satisfy the Authority that, for example, there will be sufficient measures to ensure that under 18 year olds do not have access to any adult only gaming machine areas. Such measures may include:

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

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

9.30 *No Casinos resolution* – At this time this Licensing Authority has not passed a ‘no casino/no additional casinos’ resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, this Statement of Gambling Policy will be updated with details of that resolution. Any such decision will be made by the Full Council.

9.31 Management of areas where category B and C gaming machines are located in gambling premises that admit children and young people

This Authority notes that the Gambling Commission’s Guidance states in Paragraph 7.27 that:

‘According to mandatory and default conditions relating to premises that admit under 18s, any area where category B and C gaming machines are located must be:

- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose
- supervised (see below) at all times to ensure that under-18s do not enter the area
- arranged in a way that ensures that all parts of the area can be observed •
- supervised either by:
  - i. one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
  - ii. CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas.

A notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.'

9.32 *Betting machines in Betting Premises* - This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number and nature of betting machines an operator wants to offer. This Authority will consider limiting the number of machines only where there is evidence that such machines have been, or are likely to be, used in breach of the licensing objectives. Where there is such evidence this Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter. extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected

9.33 *Betting Offices* – This Licensing Authority will look closely at applications to re-site betting offices in the same locality or to extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. The Authority will look at those applications sympathetically where there are no concerns that the Licensing objectives will be adversely affected.

9.34 This Licensing Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.

9.35 *Travelling Fairs* - It will fall to this Licensing Authority 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.

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

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 its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9.36 *Provisional Statements* - This Licensing Authority notes the Guidance from 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".

The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations requires applications for Provisional Statements to be advertised in the same way as applications for Premises Licences. 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 in the authority's opinion reflect a change in the operator's circumstances.

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."

9.37 *Reviews* - Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious or will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review unless there is a material change in circumstances.

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;

- .reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## 10. Permits and Temporary and Occasional Use Notices

### 10.1 *Unlicensed Family Entertainment Centre gaming machine permits* (Statement of Principles on Permits - Schedule 10 paragraph 7 to the Gambling Act 2005)

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

10.2 The Act 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. The Gambling Commission's Guidance for Licensing Authorities also states: "In its policy statement, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits.

"licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group."  
(24.8)

10.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the chief officer of police has been consulted on the application. The Licensing Authority may also consider asking applicants to demonstrate:

- . a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- . that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- . that employees are trained to have a full understanding of the maximum stakes and prizes. (24.9)

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

10.4 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of



such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting 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 or around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

#### 10.5 *(Alcohol) Licensed premises gaming machine permits* - (Schedule 13 paragraph 4(1) to the Gambling Act 2005)

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. 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.

10.6 If a premises wishes to have more than 2 machines then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. This Authority will also expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons,

10.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines. Notifications and applications for two or three machines will generally be dealt with by licensing authority officers. Those for four or five machines will be determined by Licensing officers in consultation with the Chair of the Licensing (Licensing Act 2003) Committee, and applications for six or more machines will be referred to a Licensing sub-Committee.

10.8 *Prize Gaming Permits* - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3) to the Gambling Act 2005)

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

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

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm;
- that they meet the objective of carrying out gambling openly and fairly; and,
- that the premises are mainly or wholly used for gambling purposes.

10.9 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.

10.10 Permit holders must comply with the mandatory conditions of the Gambling Act 2005.

10.11 *Club Gaming and Club Machines Permits*

Members Clubs and Miners’ Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

10.12 The Licensing Authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account of a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission’s Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members. The club must be conducted ‘wholly or mainly’ for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

10.13 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that: 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;

- the applicant’s premises are used wholly or mainly by children and/or young persons;
- an offence under the Act 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 Commission or the police.

10.14 There is also a 'fast-track' application procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). It should be noted that commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance for Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- 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."

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.

#### 10.15 *Temporary Use Notices (TUN)*

There are a number of statutory limits as regards temporary use notices. It is noted that the Gambling Commission Guidance states that 'The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. The definition of 'a set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition, licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. For example, a large exhibition centre with a number of exhibition halls may come within the definition of 'premises'. A TUN should not then be granted for 21 days in respect of each of its exhibition halls.

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 Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

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

#### 10.16 *Occasional Use Notices:*

This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

### 11. **Small Society Lotteries**

11.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:

- licensed lotteries (requiring an operating licence from the Gambling Commission); and
- exempt lotteries (including small society lotteries registered by the Licensing Authority)

11.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- small society lotteries;
- incidental non-commercial lotteries;
- private lotteries;
- private society lotteries;
- work lotteries;
- residents' lotteries;
- customer lotteries;

11.3 Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits can be found on the Council's web-site at

<https://www.havering.gov.uk/Pages/ServiceChild/FAQ-lotteries-licence.aspx>

by email at [licensing@havering.gov.uk](mailto:licensing@havering.gov.uk)

11.4 Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.

11.5 Lotteries will be regulated through; a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, codes of practice and any guidance issued by the Gambling Commission. In exercising its functions with regard to small

society and exempt lotteries, the Licensing Authority will have due regard to the Gambling Commission's guidance.

- 11.6 The Licensing Authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the register is completed, the Licensing Authority will notify the applicant of his registration. In addition, the Licensing Authority will make available for inspection by the public the financial statements or returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the Licensing Authority will notify the Gambling Commission in writing, copying this to the Society concerned. The Licensing Authority will accept return information either manually but preferably electronically by emailing: [licensing@havering.gov.uk](mailto:licensing@havering.gov.uk)
- 11.7 The Licensing Authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused. Where the Licensing Authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 11.8 The Licensing Authority may refuse an application for registration if in their opinion:
- the applicant is not a non-commercial society;
  - a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
  - information provided in or with the application for registration is false or misleading.
- 11.9 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may also seek further information from the Society.
- 11.10 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
- 11.11 The Licensing Authority may revoke the registered status of a Society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the Society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 11.12 Where a Society employs an external lottery manager, it will need to satisfy itself that the manager holds an operator's licence issued by the Gambling Commission, and the Licensing Authority will expect this to be verified by the Society.

## Appendix A: Glossary of Terms

**Casino Premises Licence Categories** - a) Regional Casino Premises Licence b) Large Casino Premises Licence c) Small Casino Premises Licence d) Casinos permitted under transitional arrangements.

**Child** - Individual who is less than 16 years old.

**Code of Practice:** Means any relevant code of practice under section 24 of the Gambling Act 2005

**Default Conditions** - Conditions that will apply through Statute unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

**Lottery** - An arrangement where 1) persons are required to pay to participate in the arrangement 2) in the course of the arrangement, one or more prizes are allocated to one or more members of a class 3) the prizes are allocated by a series of processes, and 4) the first of those processes relies wholly on chance.

**Exempt Lotteries** - Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types:

- Small Society Lottery (required to register with Licensing Authorities).
- Incidental Non Commercial Lotteries e.g. Raffle at a dance/church fair
- Private Lotteries e.g. Raffle at a student hall of residence
- Customer Lotteries e.g. Supermarket holding a hamper raffle

**External Lottery Manager** - An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.

**Large Lottery** - Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.

**Licensing Committee** - A committee of 10 to 15 Councillors appointed by the Council to represent the Licensing Authority in Gambling matters.

**Licensing Sub Committee** - A sub-committee of members appointed from the Licensing Committee to whom the functions of the licensing committee can be delegated under the Act to determine applications.

**Mandatory Conditions** - Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances.

**Operating Licences** - Licences to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling.

**Personal Licence** - Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.

**Premises Licence** - Licence to authorise the provision of gaming, facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and some family entertainment centres.

**Premises** - Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

**Private Lotteries** - 3 Types of Private Lotteries:

- Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society
- Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises
- Residents’ Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises;

**Prize 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. The prizes will be determined by the operator before play commences.

**Small Lottery** - Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.

**Small Society Lottery** - A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.

**Provisional Statement** - Where an applicant can make an application to the Licensing Authority in respect of premises that he:

- Expects to be constructed
- Expects to be altered
- Expects to acquire a right to occupy.

**Temporary Use Notice** - To 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.

**Vehicles** - Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.



## Appendix B: Delegation of Functions

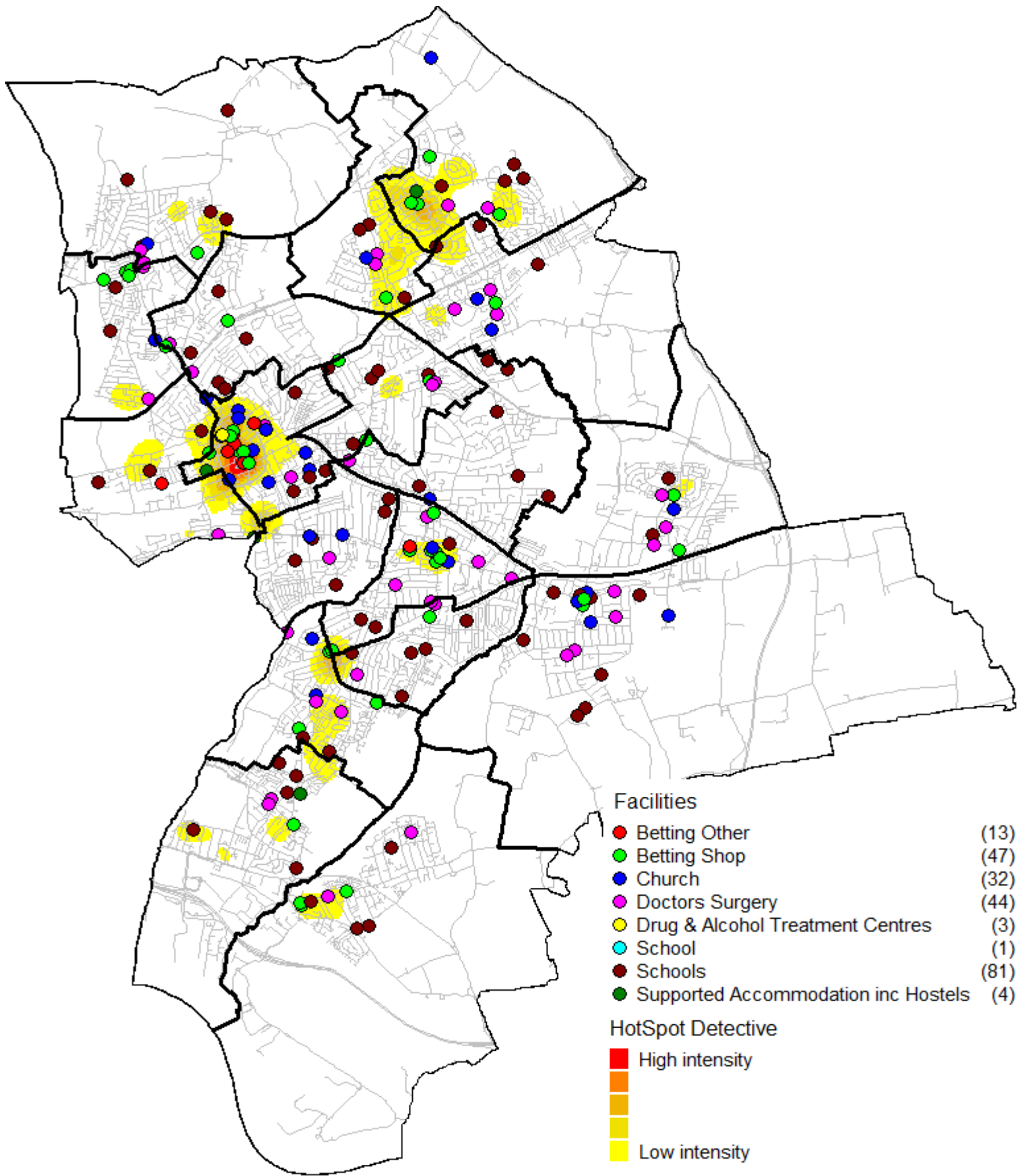
<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-committee of Licensing Committee</b>	<b>Officers</b>
Final approval of 3 year Licensing Policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licence		Where representations have been received and 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 and not withdrawn	Where no representations received/ Representations have been withdrawn
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ Representations have been withdrawn
Review of a premises licence		X	
Application for a club gaming/club machine permit		Where representations have been received and not withdrawn	Where no representations received/ Representations have been withdrawn
Cancellation of a club gaming/club machines permit			
Application for other permits			X

Alcohol licenced premises gaming machine permits		6 or more machines	3-5 machines with Chair of Licensing Committee. 3 Machines.
Cancellation of licensed premises gaming machine permit			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

## Appendix C: Categories of Gaming Machines

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
A	unlimited	unlimited	Regional casino
B1	£5	£10,000(with an option of a maximum £20,000 linked to a progressive jackpot on a premises basis only	Large casino, small casino, pre-2005 Act Casino and Regional Casino.
B2	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, adult gaming centre and all of the above
B3A	£2	£500	Members club or Miners Welfare institute only
B4	£2	£400	Members club or miners welfare club, commercial club and all of the above
C	£1	£100	Family entertainment centre(with Commission operating licence, qualifying alcohol licenced premises(without)additional gaming machine permit), qualifying alcohol licenced premises ( with additional LA gaming machine permit) and all of the above
D money prize	10p	£5	Travelling fairs, unlicensed(permit) Family entertainment centre and all of the above
D non-money prize( other than crane grab machine)	30p	£8	All of the above
D non-money prize ( crane grab	£1	£50	All of the above

machine)			
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be money prize)	All of the above
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)	All of the above.



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