

COUNCIL, 25 NOVEMBER 2015

REPORT TO COUNCIL

APPROVAL OF HAVERING'S STATEMENT OF GAMBLING POLICY FOR THE GAMBLING ACT 2005

The Gambling Act 2005 ('the Act') requires the Council to have a Statement of Gambling Policy, and to review that Statement at least every three years. The Council's current Statement will expire in January 2016: it is therefore now necessary to carry out the review.

At its meeting on 10 November 2015, the Licensing Committee considered a draft new Statement, based on the current version but, after consultation, reviewed and rewritten to include good practice, current guidance and experience from implementing the Act.

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.

The Statement of Gambling Policy had been reviewed and revised to include good practice, current guidance and experience from implementing the provisions of the 2005 Act.

The Council is unable to enforce the Act until it has published its draft Statement of Gambling Policy, carried out a consultation on the document and finally had the Policy approved by full Council. Furthermore, the Council can only publish its Statement of Gambling Policy if it has paid due regard to Guidance issued by the Government and the Gambling Commission.

It should be noted that the consultation for this revision of the Statement has been shortened, being one month only, as it will be necessary to review the policy again in 2016 when the legislation changes with regard to risk assessments.

A statutory consultation was undertaken between 30 September 2015 and 31 October 2015. The consultation was mainly carried out via the internet. All the statutory consultees were consulted directly and information about the consultation was disseminated widely using the Licensing Matters e-mail bulletin (over 2,700 recipients), Business Briefing e-mail bulletin (over 6,000 recipients) in the Romford Recorder and on the Havering website.

The Statement of Gambling Policy itself is appended to this report and Members are asked to note that the Appendix reflects the text of the document as it will be published but not necessarily the final layout.

The Licensing Committee **RECOMMENDS** to Council that:

The revised Statement of Gambling Policy be adopted.



LICENSING COMMITTEE

10 November 2015

Subject Heading:	Approval of Havering's new Statement of Gambling Policy for the Gambling Act 2005
CMT Lead:	Andrew Blake Herbert
Report Author and contact details:	Trudi Penman Trudi.penman@havering.gov.uk 01708 432718
Policy context:	Review of the current Statement of Gambling Policy having regard to the changes in legislation.
Financial summary:	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 approval of the Licensing Committee for the revised Statement of Gambling Policy under the Gambling Act 2005.

RECOMMENDATIONS

The Licensing Committee notes the details of this report and recommends that the revised Statement of Gambling Policy set out in Annexe A be approved and adopted by Full Council.

REPORT DETAIL

1.0 Section 349 of the Gambling Act 2005 requires Licensing Authorities to prepare and publish a Statement of Gambling Policy that they propose to apply in exercising their functions under the Act for each successive prescribed three year period. The consultation for this revision of the Statement has been shortened, being one month only, as it will be necessary to review the policy again in 2016 when the legislation changes with regard to risk assessments

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 revised to include good practice, current guidance and experience from implementing the provisions of the 2005 Act.

4.0 Statutory consultation was undertaken between 30th September 2015 and 31st October 2015. The consultation was mainly carried by internet. All the statutory consultees were consulted directly and information about the consultation was disseminated widely using the Licensing Matters email (over 2,700 recipients), Business briefing e mail (over 6000 recipients), in the Romford Recorder and on the Havering website.

The consultation responses have been considered and a final draft of the revised policy has been produced. Consideration of the consultation responses is set out in Annexe B.

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

IMPLICATIONS AND RISKS

Financial implications and risks:

This report seeks approval for the proposed Statement of Gambling Policy. The proposed Statement is an update of the current Statement of Gambling Policy. It has been brought into line with government changes. The Statement makes no changes to how we incur and recover costs. For information the government specify a minimum and maximum fee level. Fee levels continue to be monitored on an on-going basis to ensure full cost recovery.

Legal implications and risks.

A Licensing Authority must have in place, and must review its Statement of Gambling Policy every 3 years and may undertake additional reviews of the whole Statement of Policy or any part of it during each successive 3 year period.

The Statement of Policy must give effect to the 3 licensing principles of the Gambling Act 2015:

Prevention of gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime

Ensure that gambling is conducted in a fair and open way

Protection of children and other vulnerable persons from being harmed or exploited by gambling.

In finalising its Statement of Policy or any revision, the Authority must have due regard to the Guidance published by the Gambling Commission, with appropriate explanations and justifications for any departure from the Gambling Commission Guidance. Part 6 of the Gambling Commission Guidance in respect of Statements of Policy is annexed to this report. The Authority must declare within the Statement of Policy that it has had due regard to the Guidance by the Gambling Commission, the principles of the 2005 Act and any responses from those who were consulted.

The Authority must undertake statutory consultation for every change to the Statement of Policy and comply with best practice recommended by the Gambling Commission within its published Guidance. The consultation must include the prescribed offices and organisations, being the chief police officer for its area, persons representing interests of those carrying on gambling businesses in the area, and representatives of persons whose interests are likely to be affected by the Council exercising its functions under the 2005 Act. The recommended best practice of a wide ranging inclusive consultation is appropriate beyond the statutory requirements.

The Statement of Policy should have as its aim to permit the use of premises for gambling, however, each application must be considered upon its own merits and subject to the 3 gambling act principles.

The form and content of the Statement of Policy is for the Authority to determine, however, it must comply with statutory requirements set out within regulations and include sections within the Policy Statement in respect of designating a competent body to advise the Authority about the protection of children from harm, principles in respect of determining who is an interested party to applications and premises licences, exchange of information with the Gambling Commission and others and the inspection of premises and institution of criminal proceedings.

The Statement of Policy ought to take into consideration local circumstances and reflect local issues in respect of gambling within its area and each authority will have different priorities given its location and demographic and economic make up, being an assessment of its local area profile.

There is a statutory requirement to publish a notice of the intention to publish a Statement of Policy, the date it will come into effect. There must also be details of an Internet address where the publication will be made and a copy available for inspection by members of the public at the Authority's principle address. The Statement of Policy must be published for 4 weeks before it comes into effect and the notice of the publication must not be later than the first date of publication. The notice must be, inter alia, in a local newspaper, or in Libraries in the Authority's area.

The Statement of Policy or a revision of any part of it, or any procedural non-compliance may be challenged by judicial review.

Human Resources implications and risks:

There are no human resource implications.

Equalities implications and risks:

There are no negative impacts against any protected characteristics by the implementation of this policy. The decision to award a licence will be guided by the main aims and principles of the legislation which ultimately seek to protect vulnerable persons.

BACKGROUND PAPERS

Annexe A Statement of Gambling Policy

Annexe B Consultation responses

Annexe C EIA

Annexe D Part 6 Gambling Commission Guidance to licensing authorities. 5th edition.



Statement of Gambling Policy

(2016-2019)

Document Control

Document details

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Author	Trudi Penman
Lead officer	Andrew Blake Herbert
Approved by	
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Supersedes	Statement of Gambling Policy
Target audience	Applicants, Residents, Licensing Committee, Councillors.
Related to	

Version history

Version	Status	Date	Dissemination/Change
V0.1	Initial draft	25/08/15	
V0.2	Draft	30/10/15	changes in responses to consultation.
V0.3	Final draft	3/11/15	Changes following legal comments

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 consult on and publish a Statement of Gambling Policy in relation to its responsibilities under the Act. Once published, this Policy Statement, will be kept under constant review and, reviewed 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. The Statement of Gambling Policy has been revised after review and is for the period 2016 – 2019.

Section 25 of the Gambling Act states that;

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, the Council, in carrying out its licensing functions under the Act will 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 this Policy Statement published 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 this 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 ensure that, when considering applications under this legislation, it will avoid duplication with other regulatory regimes.

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.

1.7 The Licensing Authority will not take into consideration any moral objections to Gambling when considering an application for a premises licence.

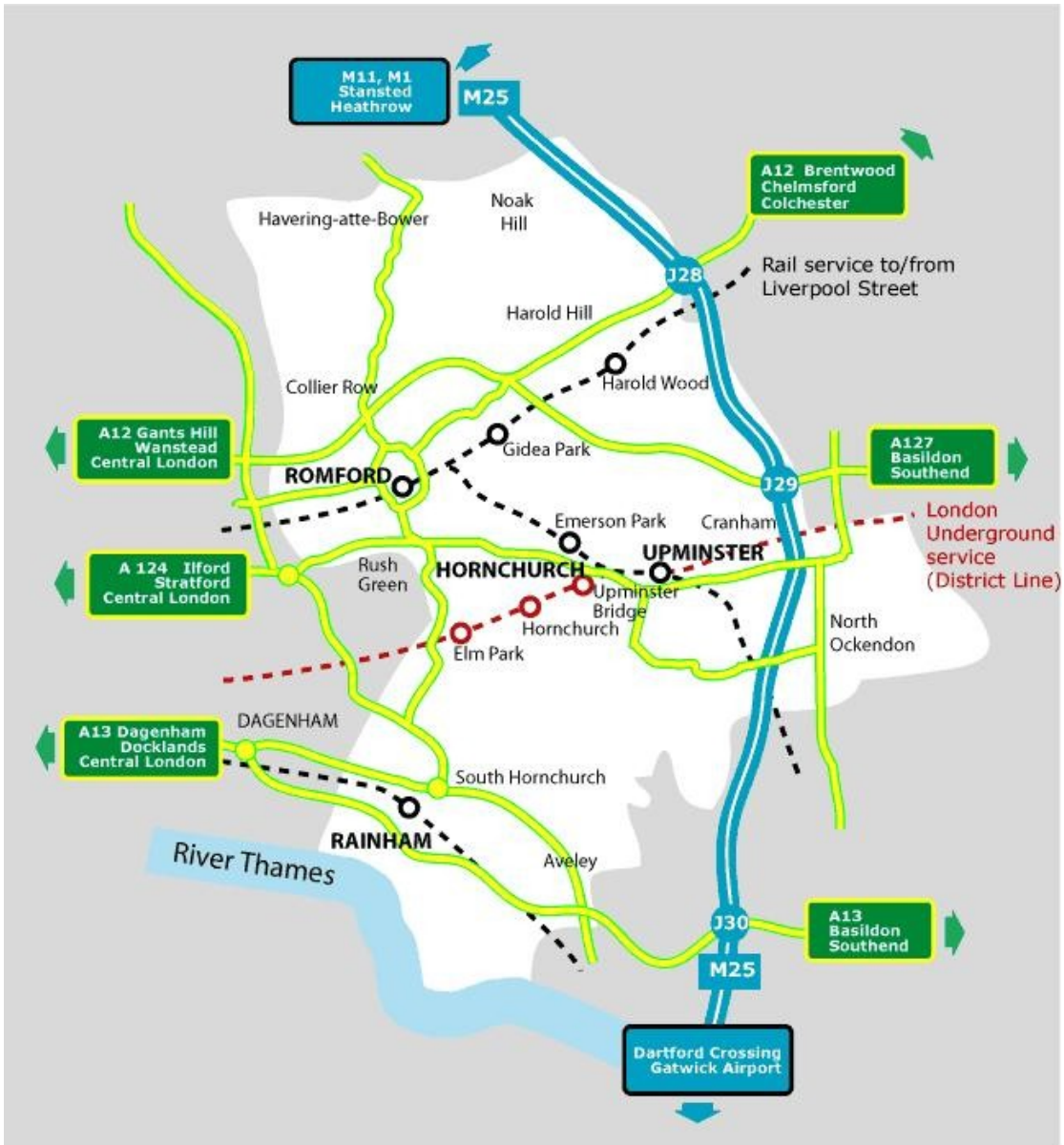
2 Profile of the London Borough of Havering

- 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 a 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
- 2.4 Clean, Safe, Proud is Havering Council's vision for the future which states the following

We want Havering to be clean and to look after our environment for future generations.

We want you to be safe – whether you're a pensioner walking through a town after dark, or a young child growing up without the security of a loving home.

And we want you to be proud to live in Havering – where we respect each other, value our traditions and work together to improve our quality of life.



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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, the 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.

* 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 will be the Council's Family and Children's Services Department and, in particular, the LSCB Manager in that Department.

5.3 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).

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.

5.4 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 Havering 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.

5.5 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.

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.
- 6.2 The principle that Havering 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 The 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.

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

- 7.3 As per the Gambling Commission's Guidance for Licensing Authorities, the Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The Authority will also adopt a risk-based inspection programme as recommended by the Gambling Commission's Guidance for Licensing Authorities.
- 7.5 The main enforcement and compliance role for the 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 The 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 The 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 Gambling Policy.

- 9.3 The 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 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 The 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 subdivision 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. The Authority also takes particular note of the Gambling Commission's Guidance, contained in paragraphs 19.21 – 19.25, regarding "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. The 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 Operators can apply for a premises licence in respect of premises which have still to be constructed or altered and each application will be determined on its merits. It should be noted that an applicant may not be able to obtain a full premises licence until the premises in which it is proposed to offer the gambling is 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. The 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 The 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 The 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 **Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime.** Premises licences granted must be reasonably consistent with the licensing objectives. The 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 the 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, the 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 the Local Authority 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 (ASB) and centres for people with drug and alcohol addiction. The 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 hotspots, hostels/homes for vulnerable people and centres for people with a drug and alcohol addiction.
- 9.15 In areas sensitive areas the 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 if appropriate, 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 The 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** - The 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** - The 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.*’ The 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. The 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 the 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. The 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 The 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; these 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 in Havering has required door supervisors for the protection of the public. The 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, the 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 Licensing 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, the 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 Licensing 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 Gam Care.
- 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 Havering 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

The 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* - The 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 access to the premises and 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. The 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, the 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* – The 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 The 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 named single 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 the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement 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 fair occupying the land. The Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9.36 *Provisional Statements* - The 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.

The 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 Statement of Principles – The 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 efficacy 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.” The 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. The 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

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 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”.

The 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. The 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) states 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. The 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

- 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
- 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

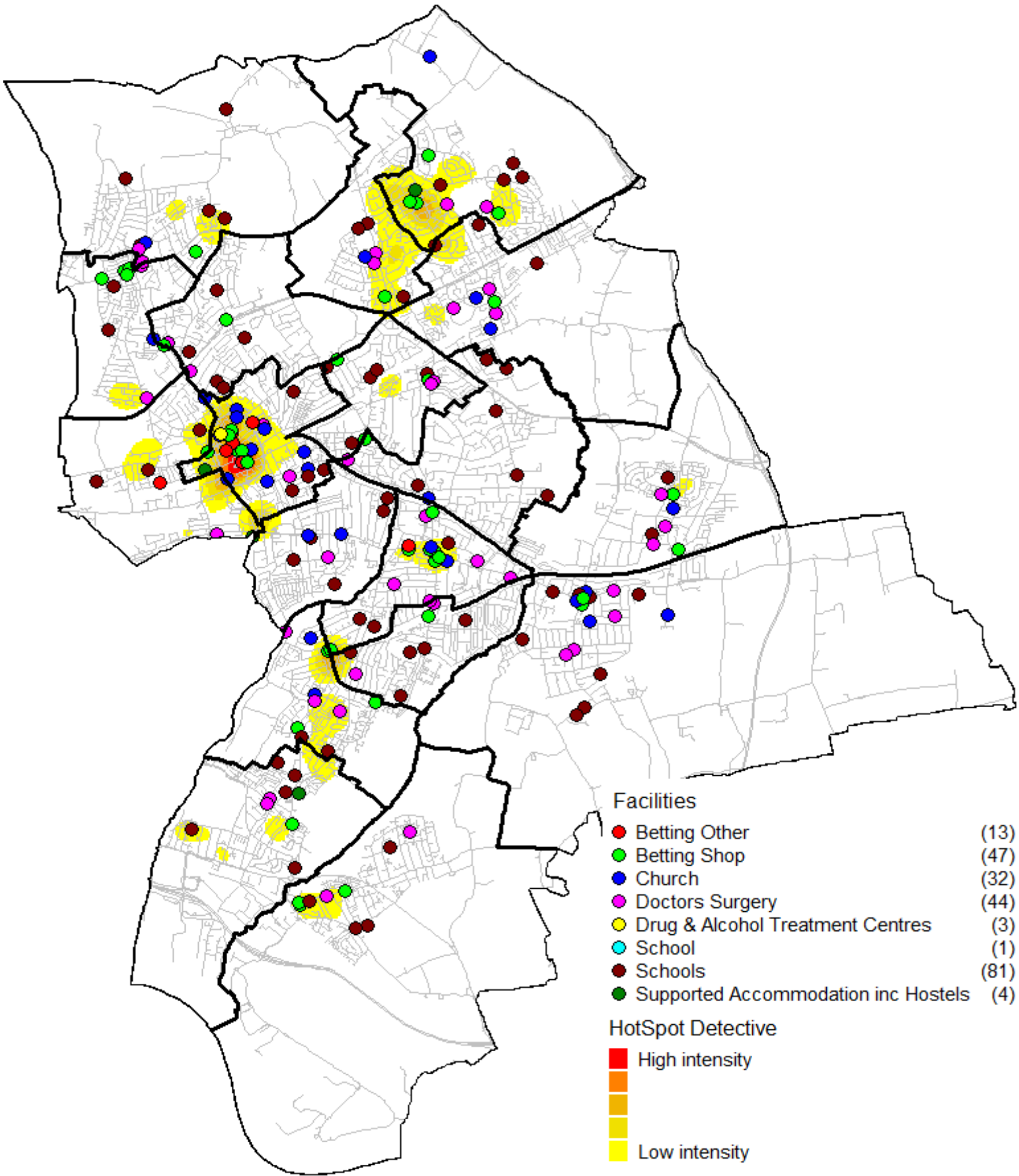
Matter to be dealt with	Full Council	Sub-committee of Licensing Committee	Officers
Final approval of 3 year Licensing Policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licence		Where representations have been received and not withdrawn	Where no representations 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.



Annexe B

3 written responses received representing the trade.

Consultation response verbatim	Consideration of response	Change made (in bold)
<p>From Luxury Leisure . Para 9.5. - As the Authority will appreciate, the Gambling Commission’s concept of “primary use” (under any name), has been the subject of challenges in the tribunals. It is not accepted that the concept is legitimately founded in the Act.</p>	<p>Will leave the paragraph as is until legislation is clarified.</p>	<p>No change</p>
<p>We note the Authority has attached a Local Area Profile map. Unfortunately, its size/scale makes it virtually impossible to read and analyse and may therefore prove to be of little use to operators when preparing risk assessments. If this were to remain the case, it would be a pity</p>	<p>The map will be attached as an appendix so that it will be able to be increased in size and can be updated as necessary without consultation.</p>	<p>No change</p>
<p>Para 9.15 – We wonder if the reference in the first line to para 9.13 is correct? Further, as the paragraph is currently written, it suggests that applicants must always propose conditions for the premise licence they seek. Surely this is not what is intended and conditions should only be proposed where necessary. We would ask that this be clarified, perhaps by inserting the words “if appropriate” after “licence conditions”.</p>	<p>agreed</p>	<p>In sensitive areas the 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 if appropriate, to cater for the local area in which they propose to run their business.</p>
<p>Para 9.17 – The Commission’s stated intention for risk assessments is that they are simple and short documents, based on the operator’s knowledge of the locality in which the particular premises are situated. It would be wholly disproportionate and unreasonable to expect operators to trawl through</p>	<p>Disagree The paragraph is only highlighting where information can be found.</p>	<p>No change</p>

<p>lengthy websites, volumes of crime statistics, or un-named publications to come to a view on the risk it faces in running its premises. Although Para 9.17 does not make consideration of these sites compulsory, some may take it as such, which would be contrary to the intention of the Act and the Regulators' Code, which as the Draft correctly notes, applies to the matters covered by it</p>		
<p>Paras 9.23 and 9.31 repeat parts of the Mandatory and Default conditions. We are not sure why this is felt to be necessary, when other parts of the Regulations are not included. We suggest that these provisions be removed as being potentially confusing.</p>	<p>Disagree It is an informative as the policy is not just for the trade.</p>	<p>No change</p>
<p>. Para 9.28 – We do not understand the reference to “physical separation of areas” within an AGC. This is only relevant in the context of an adult area in a FEC and this is covered in para 9.29.</p>	<p>Disagree. Where premises have an existing multi licence (such as a bingo licence in an AGC) there needs to be separation.</p>	<p>No change</p>
<p>Para. 9.32 – While this para notes that it is an offence for those under 18 to bet, in fact it is an offence for them to be on the premises. Although this is referred to elsewhere, we suggest it be clarified in this para to avoid confusion.</p>	<p>agreed</p>	<p>9.32 Betting machines in Betting Premises - The 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 access to the premises and 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. The 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, the</p>

		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
Para 9.33 - We do not understand why these comments are directed only to Betting Premises and not to other premises holding other types of premises licences. This appears to be unfair as a blanket approach and therefore not in keeping with the Regulators' Code.	Disagree. From experience betting shops have tended to close down and reopen a new branch nearby so if the new application is in a sensitive area this paragraph will assist.	No change
GossChalks solicitors on behalf of the Association of British Bookmakers. Paragraph 1.5 indicates that in carrying out its licensing functions under the act, the Council will "generally aim to permit the use of premises for gambling..." the requirement within section 153 Gambling Act 2005 is that the licencing authority does "aim to permit". The word 'generally' should therefore be deleted.	Disagree	No change
Paragraph 9.1 states that "licencing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate". The statement of gambling policy needs to be clear throughout that conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licencing objectives in the circumstances of that particular case.	Noted but don't consider that it requires changing.	No change

<p>Paragraph 9.27 makes this point in relation to door supervision but the statement of principles needs to be consistent that conditions will only be imposed where there is evidence of a need to do so and not simply where “it is believed to be appropriate” (paragraph 9.1), where there is a ‘perceived need’ (paragraph 9.22) or whether there are mere concerns.</p>	<p>Noted but don’t consider that it requires changing</p>	<p>No change</p>
<p>Paragraph 9.9 refers to the location of premises. The final two sentences of this paragraph cause the ABB significant concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licencing regime under Licencing Acts 2003. Such a policy is contrary to the overriding principles of “aim to permit” contained within s153 of the Gambling Act2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle that each case will be determined on its own merits.</p>	<p>Refer to the sentence before the final 2 sentences. “Should any specific policy be decided upon regarding areas where gambling premises should not be located, this Statement will be updated”. No areas have been identified and a consultation exercise would have to be carried out prior to implementation.</p>	<p>No change</p>
<p>Paragraph 9.12 appears to have the title of first licensing objective missing. Paragraphs 9.19 and 9.20 have the second and third licensing objective clearly stated in bold type. The title appears to have been omitted from the beginning of paragraph 9.12.</p>	<p>Agreed</p>	<p>9.12 Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime. Premises licences granted must be reasonably consistent with</p>

		<p>the licensing objectives. The 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 the 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.</p>
<p>Paragraph 9.12 should be clear that issues of nuisance are not relevant considerations and that the Gambling Commission has defined disorder as intending to mean activity that is more serious and disruptive than mere nuisance.</p>	<p>Disagree</p>	<p>No Change</p>
<p>Paragraph 9.13 should be deleted. It refers to 'sensitive areas' but these are not defined. It further indicates that the licencing authority will consider imposing restrictions on advertising gambling facilities on such premises where it is felt relevant and reasonably consistent with the licencing objectives. Advertising on gambling premises is already heavily regulated and covered by the LCCP. Ordinary code provision 5.1.6 requires socially</p>	<p>Disagree. This is more for a consideration by the applicant.</p>	<p>No change</p>

<p>responsible advertising, compliance with the CAP codes of practice and the gambling industry code for socially responsible advertising. The advertising of gambling premises is not an issue for consideration by the licensing authority and is dealt with instead under the operating licence regime. This paragraph should therefore be removed.</p>		
<p>Paragraph 9.14 explains that the local area profile introduces the map at Appendix D showing the location of schools, homes for vulnerable people and other places that the authority deems relevant for the purposes of a local authority risk assessment. This paragraph needs to be redrafted and the map at appendix D amended. The reason is that irrelevant considerations are taken into account. Social responsibility code provision 10.1.1 requires that licensees must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. The risk assessment, therefore, must relate to the gambling objectives. Issues such as ASB hotspots (paragraph 9.14) and the proximity of churches (appendix D) cannot be relevant to the licensing objectives. Issues of nuisance are not relevant considerations under Gambling Act 2005, the Gambling Commission advising that those be dealt with under separate legislation and it is difficult to see how the proximity of a church could be relevant. Indeed, the Gambling Commission guidance (paragraph 5.34 – fifth addition) indicates “licensing</p>	<p>The map is to assist applicants to know what is in the area. Places of worship are included for completeness only.</p>	<p>No Change.</p>

<p>authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences". It is impossible to see how the proximity of a betting premise to a place of worship could pose a risk to the licencing objectives.</p> <p>It is accepted from the outset that the proximity of proposed betting offices to schools/hostels for vulnerable people could pose a risk to the licencing objectives. These issues will be covered by the local area risk assessments that need to be lodged with new applications/material variations after 6 April 2016. The paragraphs in the statement of gambling policy should also be put into some context. The licensing authority should recognise that there has been betting regulation for over 50 years. Operators have developed policies and procedures to ensure that those who are not permitted to bet do not do so. These policies and procedures are supplemented by the mandatory and default conditions which are specifically tailored to the operation of gambling premises.</p>		
<p>Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. Please note that when judging applications, the Council should not take into account of any</p>	<p>Agreed</p>	<p>1.7 The Licensing Authority will not take into consideration any moral objections to Gambling when considering an application for a premises licence.</p>

<p>moral objections to gambling and most Council's include a sentence to this effect.</p>		
<p>Coral Racing Limited recognise the requirement to supply risk assessments with future applications & variations following the consultation completion (requirement is from 6th April 2016) and are pleased to see this information included within the Draft Statement. Whilst each application will be judged on its merits as mentioned at several points within your statement, we would like to politely highlight that within the detail of the style of Risk Assessments required (Section 9) of your Draft Statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools causes harm to the licensing objectives.</p> <p>We appreciate that such locations are included within Gambling Commission guidance to councils but wish to ensure that by inclusion in the document, there is no inference that such locations in close proximity to the licensed premises, are at greater risk of causing harm to the licensing objectives.</p> <p>Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited</p>	<p>The map is to assist applicants to know what is in the area. The location of Schools is included to assist applicants when they undertake their risk assessments when the legislation requires them to do so,</p>	<p>No Change.</p>

<p>immediately next to schools and colleges and no evidence whatsoever that they cause problems. Coral's experience</p>		
<p>Power Leisure Bookmakers Ltd Should the Licensing Authority contemplate introducing detailed policies regarding the location of specific gambling premises (section 9.9), thorough details should be provided for consultation with stakeholders at that time.</p>	<p>Agreed and already in the policy.</p>	<p>No change</p>
<p>We note at paragraph 9.6 that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer gambling is constructed. This paragraph requires updating.</p>	<p>Agreed wording amended.</p>	<p>Operators can apply for a premises licence in respect of premises which have still to be constructed or altered and each application will be determined on its merits. It should be noted that an applicant may not be able to obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed.</p>

Equality Impact Assessment (EIA)

Document control

Title of activity:	Statement of Gambling Policy
Type of activity:	Policy
Lead officer:	Trudi Penman
Approved by:	Patrick Keyes

Date completed:	27/10/15
Scheduled date for review:	2020

Did you seek advice from the Corporate Policy & Diversity team?	Yes
Does the EIA contain any confidential or exempt information that would prevent you publishing it on the Council's website?	No

1. Equality Impact Assessment Checklist

The Equality Impact Assessment (EIA) is a tool to ensure that your activity meets the needs of individuals and groups that use your service. It also helps the Council to meet its legal obligation under the [Equality Act 2010 and the Public Sector Equality Duty](#).

Please complete the following checklist to determine whether or not you will need to complete an EIA. Please ensure you keep this section for your audit trail. If you have any questions, please contact the Corporate Policy and Diversity Team at diversity@havering.gov.uk

About your activity

1	Title of activity	Statement of Gambling Policy
2	Type of activity	Policy
3	Scope of activity	The aim of the Statement of Gambling Policy is to comply with the requirements of the Gambling Act 2005. It sets out how Havering as the Licensing Authority will approach licensing premises under the Gambling Act 2005. The updated policy identifies what the Licensing Authority expects from applicants and provides appendices of useful information including a local area profile.
4a	Is the activity new or changing?	No
4b	Is the activity likely to have an impact on individuals or groups?	No groups or individuals most likely to be affected Residents of Havering, People who work in Havering Businesses in Havering

		Councillors. Responsible authorities as defined under the Licensing Act 2003.
5	If you answered yes:	<i>Please complete the EIA on the next page.</i>
6	If you answered no:	None of these groups are specifically affected. However the Gambling Act requires that a public consultation exercise is carried out. This was from 30 th September 2015 to 31 st October 2015. The consultation was primarily on line using a Survey monkey questionnaire to collect responses however respondents had the option to email licensing. Information about the consultation was sent out via the Licensing matters email, the business briefing email, the Romford Recorder, to responsible authorities, to Havering Councillors to gambling trade bodies and to gambling premises licence holders. The decision to award a licence will be guided by the main aims and principles of the legislation which ultimately seek to protect vulnerable persons.

Completed by:	<i>Trudi Penman Licensing and Health and Safety Divisional manager.</i>
Date:	<i>30/10/15</i>

date for next review; and who will be reviewing it.

Part 6: Statement of licensing policy

Introduction

- 6.1** S.349 of the Act requires all licensing authorities to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act, commonly known as a statement of policy. The statement of policy forms the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality.
- 6.2** The statement of policy acts as the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. For example, a licensing authority might identify the safeguarding of children as a key priority, in which case its statement would set out those policies, procedures and control measures it would expect licensees to follow to mitigate any risks relating to underage gambling.
- 6.3** Statements of policy are likely to reflect differences in approach between different licensing authorities. The statement made by a seaside town licensing authority, which may see gambling businesses as an important part of its plans for growth and regeneration based on regular influx of visitors, may well be significantly different from that of an inner city authority, which may be more concerned with impact on the vulnerable. In this respect, licensing authorities may find it helpful to make an assessment of the pattern of gambling and associated risks to the licensing objectives in their own areas.
- 6.4** The Commission encourages licensing authorities to have a statement of policy that is genuinely reflective of local issues, local data, local risk and the expectations that a licensing authority has of operators who either currently offer gambling facilities or wish to do so in the future. The existence of a clear and robust statement of policy provides greater scope for licensing authorities to work in partnership with operators, other local businesses, communities, and responsible authorities to identify and to proactively mitigate local risks to the licensing objectives.
- 6.5** The statement of policy can be reviewed and revised by the licensing authority at any time, but must be produced following consultation with those bodies and persons set out in s.349(3) of the Act. Regulations made by the Secretary of State, or Scottish Ministers in Scotland, prescribe the form of statements, and the procedure to be followed in relation to them and their publication, as detailed in paragraph 6.11 onwards.
- 6.6** Licensing authorities should ensure that the statement of policy balances the need for a degree of certainty on the part of gambling businesses with the need to remain responsive to emerging risks. It should be evidence led, based on the principles outlined below and reviewed at least every three years.

Fundamental principles

- 6.7** Licensing authorities' statements of policy should begin by stating the three licensing objectives (s.1 of the Act), which the policy will promote:
- 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.

- 6.8** The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in s.153 of the Act.
- 6.9** It is expected that licensing authorities will regulate gambling in the public interest which will be reflected in the statement of policy.
- 6.10** While the statement of policy may set out a general approach to the exercise of functions under the Act, it should not override the right of any person to make an application and to have that application considered on its merits. The exception to this is where the licensing authority has passed a 'no casino' resolution under s.166(1) of the Act, detailed in Part 17 of this Guidance. Additionally, the statement must not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

Form and content

- 6.11** The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006¹¹ (and The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006¹², (set out requirements as to the form and publication of licensing authority statements of policy and subsequent revisions of statements. In addition to those requirements, this Guidance sets out certain information that the Commission considers should be included in all licensing authority statements of policy.
- 6.12** The regulations provide that the form of the statement can be determined by the licensing authority itself, subject to the requirement that the statement of policy must contain an introductory section summarising the matters contained within the statement. The introductory section must include:
- a description of the geographical area to which the statement of policy applies, which can be satisfied by including a plan of the area
 - a list of the persons consulted in preparing the statement.
- 6.13** The statement of policy should set out the activities that the licensing authority is able to license.
- 6.14** The regulations also require the statement of policy to set out specific matters in separate sections relating to the principles to be applied by the licensing authority in exercising:
- i. its powers under s.157(h) of the Act to designate, in writing, a body which is competent to advise it about the protection of children from harm
 - ii. its powers under s.158 of the Act to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence
 - iii. the functions under s.29 and s.30 of the Act with respect to the exchanges of information between it and the Commission, and the functions under s.350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act
 - iv. the functions under Part 15 of the Act with respect to the inspection of premises and the power under s.346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

Each of these is set out in further detail below.

¹¹ SI 2006/636: The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

¹² SSI 2006/156: The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006

i. Competent authority for protection of children from harm

- 6.15** Under s.349 of the Act, the statement of policy must set out the principles that the licensing authority proposes to apply in exercising their functions. One of those functions is to determine who will be competent to advise them about the protection of children from harm and so the statement of policy must contain a section that sets out the principles the licensing authority will apply in designating a competent body.
- 6.16** In many licensing authority areas, the recognised competent body will be the local Safeguarding Children Board in England and Wales, or the Child Protection Committee in Scotland. However, the licensing authority has discretion to determine the most appropriate competent body to advise it, and must consider which body best fulfils this function. The statement of policy should set out this consideration, or the criteria the authority intends to use, in order to designate that body and confirm that designation in writing.
- 6.17** A designated body is a responsible authority under s.157(h) of the Act. Licensing authorities should engage fully with the designated body and provide sufficient opportunity for them to be consulted on the development of the statement of policy, as they can offer valuable insight into the impact of gambling on children in the local area. Licensing authorities might also opt to consult such groups as part of its own local area profile, discussed at paragraph 6.47 onwards.

ii. Interested parties

- 6.18** Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence.
- 6.19** S.158 of the Act defines interested parties as persons who, **in the opinion of the licensing authority:**
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities
 - b) have business interests that might be affected by the authorised activities
 - c) represent persons who satisfy paragraph a) or b).
- 6.20** It is a matter for the licensing authority to decide whether a person is an interested party with regard to particular premises and that should be decided on a case by case basis. However, the licensing authority should set out the principles it will apply in determining whether a person is an interested party in its statement of policy, and that may include relevant factors it will take into account. For example, this could be the size of the premises and the nature of the activities taking place as larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.
- 6.21** Licensing authority statements of policy should include guidance as to whom they consider comes within the category of those who living sufficiently close to premises to be affected by it or have business interests, that may be affected by it. For example, this could include trade associations, trade unions, residents' and tenants' associations. It is expected that the types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices.

iii. Exchange of information

- 6.22** Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority in relation to the exchange of information with the Commission (s.29 and s.30 of the Act) and other persons (s.350 of the Act).
- 6.23** S.29 of the Act enables the Commission to require information from licensing authorities, including the manner in which the information is compiled, collated and the form in which it is provided, providing that it:
- forms part of a register maintained under the Act
 - is in the possession of the licensing authority in connection with a provision of the Act.
- 6.24** S.350 of the Act allows licensing authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6(1) as:
- a constable or police force
 - an enforcement officer
 - a licensing authority
 - HMRC
 - the First Tier Tribunal
 - the Secretary of State
 - Scottish Ministers.
- 6.25** The licensing authority statement of policy must set out how it will approach information exchange with other persons or bodies under the Act, and whether it intends to establish any protocols in this regard. The statement of policy should also include the authority's approach to data protection and freedom of information, in particular, how information will be protected, whether the confidentiality of those making representations will be maintained, what information will be shared with other agencies or persons and how information can be accessed by data subjects.
- 6.26** Further information regarding the exchange of information can be found in Part 13 of this Guidance.
- 6.27** For the purposes of their statement of policy, licensing authorities should confirm that they will act in accordance with the relevant legislation and Guidance from the Commission and will adopt the principles of better regulation (detailed at paragraph 5.27).

iv. Inspection and criminal proceedings

- 6.28** Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority in exercising their inspection function (part 15 of the Act) and in instigating criminal proceedings (s.346 of the Act).
- 6.29** The statutory principles of good regulation and the Regulators' Code (paragraph 5.27) apply to licensing authorities. This means that inspection and enforcement activities must be carried out in a way which is transparent, accountable, proportionate, consistent and targeted, and promotes efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

- 6.30** The statement of policy should set out the principles to be applied by the licensing authority in relation to inspections. It is recommended that licensing authorities adopt a risk-based approach to inspection programmes and the statement of policy should outline the criteria the licensing authority will use to determine the level of risk in respect of premises. Such an approach could include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more effectively concentrated on potential problem premises. If the licensing authority has a local area profile, as outlined at paragraph 6.47 onwards below, their inspection approach is likely to be informed by it.
- 6.31** Many licensing authorities in England and Wales will have general enforcement policies which are in accordance with the codes of practice developed with the Crown Prosecution Service. Such licensing authorities may wish to refer to these codes in their statement of policy, in relation to the management of criminal cases.
- 6.32** Further guidance on licensing authorities' compliance and enforcement responsibilities is available in Part 36 of this Guidance. This has been developed following discussions between the Commission, the police, licensing authorities and other law-enforcement and regulatory agencies to agree respective roles in relation to particular types of gambling and licensed premises.

Other matters to be considered

Relevant factors when considering applications and reviews

- 6.33** The statement of policy should set out what factors it is likely to take into account when considering applications for premises licences, permits and other permissions, and when determining whether to review a licence. This may be informed by the licensing authority's local area profile and will include considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children.
- 6.34** Although the statement of policy should identify the factors to be considered, it should be clear that each application or review will be decided on its merits. Importantly, if an applicant for a premises licence can show how risks to the licensing objectives can be mitigated, the licensing authority will need to take that into account in its decision making.

Statement regarding casino resolution

- 6.35** The statement of policy should include details about how the licensing authority has taken or will take a decision in relation to a casino resolution. A licensing authority may resolve not to issue casino premises licences within its area. If it does so, the resolution must be published in its statement of policy (s.166(5) of the Act).

Other regulatory regimes

- 6.36** The statement of policy should include a firm commitment to avoid duplication with other regulatory regimes, so far as possible. For example, a range of general duties are imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public, by legislation governing health and safety at work and fire safety. Therefore such requirements do not need to be included in the statement of policy.

Demand for gaming premises

- 6.37** Previous legislation required that the grant of certain gambling permissions should take account of whether there was unfulfilled demand for the facilities. This is no longer the case and each application must be considered on its merits without regard to demand. The statement of policy should reflect the 'aim to permit' principle (s.153 of the Act) and should not comment on whether there is demand for gambling premises.

6.38 However, the statement of policy may comment on the location of premises and the general principles it will apply in considering the location so far as it relates to the licensing objectives. For example, a statement of policy may set out that the licensing authority will carefully consider applications for premises licences and whether there is a need for condition(s) to mitigate risks, in respect of certain kinds of gambling located very close to a school or a centre for gambling addicts, in light of the third licensing objective. The statement of policy must be clear that each case will be decided on its merits and will depend to a large extent on the type of gambling that is proposed for the premises.

Other information

6.39 Licensing authorities may wish to include other information in their statement of policy to ensure clarity on their approach to local regulation, particularly the factors that will not be relevant to the exercise of their functions under the Act. This will ensure that applicants or persons who wish to make representations have all the necessary information to be able to do so, including what representations may not be relevant.

6.40 For example, licensing authorities may wish to explain in their statements of policy that any objections to new premises or requests for a review should be based on the licensing objectives of the Act. The statement of policy could make it clear that – unlike the Licensing Act 2003 and the Licensing (Scotland) Act 2005 – the Act does not include the prevention of public nuisance and anti-social behaviour as a specific licensing objective.

Local risk assessments

6.41 The Commission's [Licence Conditions and Codes of Practice \(LCCP\)](#) which were revised and published in February 2015, formalise the need for operators to consider local risks.

6.42 Social responsibility (SR) code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's statement of policy.

6.43 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

6.44 The new SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority, such as when they are inspecting a premises. Both provisions take effect from April 2016.