

# Gambling Act 2005

## **DRAFT** STATEMENT OF PRINCIPLES

January 2010

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## **Preface**

Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles that 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 the amended parts re-consulted upon. The statement must then be re-published.

Thurrock Council, along with other licensing authorities, has a duty under the Act to licence premises where gambling is to take place, and to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

This statement of principles has been produced in cognisance of Thurrock Council's obligations under Section 17 of the Crime and Disorder Act 1998 to exercise its functions, and do all that it reasonably can to prevent, crime and disorder in its area.

Thurrock Council consulted widely upon this policy statement before finalising and publishing it. Consultation took place between June and August 2009 in accordance with HM Government's Code of Practice on Consultation (<http://www.berr.gov.uk/files/file47158.pdf>). Full details of the consultation are shown at Appendix A.

## **Declaration**

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

## **The Borough of Thurrock**

*The borough of Thurrock is a unitary authority and lies on the River Thames, just to the East of London. It covers an area of 165 sq km - more than half of which is green belt. It has over 18 miles of riverfront.*

*Thurrock has a wide-ranging economy, centred on logistics and the retail trade. There are a number of large and important industrial sites, including a large oil refinery and manufacturing industries. Thurrock is also home to the Lakeside shopping centre. With over 300 shops under one roof, this is one of the largest retail attractions in Europe. There are plans underway to convert the Coryton to a container terminal which will be one of, if not the, largest in Europe.*

*In 2007 our population was estimated at 148,900 (a growth of nearly 4% since the 2001 Census) in 63,600 households (a growth of 3%). It is projected that the population will be 166,900 by 2021. The majority of the population live in the main neighbourhoods of Grays, Stanford/Corringham, South Ockendon/Belhus, Tilbury and the developing community of Chafford. The number of houses is expected to increase to 78,000 by 2021 as Thurrock undertakes its contribution to the East England Regional Spatial Strategy. This rate of growth is anticipated to be 10% more than for the East England overall and is evidence of the key role Thurrock has in the regeneration of the Thames Gateway.*

The current population is relatively young, with almost a quarter aged under 18 and 7% under 5. There are more than 9,000 people over 75 and this number is projected to increase considerably by 2011, reversing the trend elsewhere in South Essex. One in ten over the age of 75 are likely to need some form of help from the Council and a third of our 1,800 residents over the age of 85 almost certainly will. These demographic factors are contributing to an increase in demand for health and social care services and we are changing our structures to reflect this.

There are no areas within the Borough that are considered particularly suitable or unsuitable for the provision of gaming facilities. Potential operators should however refer to, the District Plan and the emerging Local Development Framework (through our Development Control Team or on our website at [www.thurrock.gov.uk](http://www.thurrock.gov.uk)) for details about the Thurrock Thames Gateway Development Corporation's and the local planning authority's approach to granting planning permission for developments where such activities may take place.

## PART A

### Introduction

This Statement of Principles was approved at a meeting of the Full Council on ..... and was published via our website. Copies have been placed in public libraries throughout the Borough as well as being available free of charge from the Civic Offices and on the Council web site.

*At the meeting on ..... The full Council passed resolution not to/to issue casino premises licences in accordance with Section 166 of the Gambling Act 2005. (Quote reasons for arriving at this decision)*

*This Statement of Principles will be effective from 14 January 2010*

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

*The Licensing Authority has consulted widely and has given due consideration to the views of all those who responded to that consultation process. Minority Ethnic communities and faith groups have been included in the consultation process.*

*Having regard to the Council's **Cultural Strategy**, a diverse provision is welcomed for the benefit of the local communities.*

*The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention Right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities.*

*The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services. The Council has a Disability Equality Scheme and Action Plan under the 1995 Act. A copy of the Scheme is available on website using the following link*

[http://www.thurrock.gov.uk/diversity/content.php?page=des\\_00\\_intro](http://www.thurrock.gov.uk/diversity/content.php?page=des_00_intro)

*The impact of this policy on race relations and gender equality will be monitored through the Council's Race Equality Scheme and Gender Equality Scheme adopted in 2007. Copies of these are available on the Council's licensing website using the following links*

[http://www.thurrock.gov.uk/diversity/content.php?page=ges\\_00\\_intro](http://www.thurrock.gov.uk/diversity/content.php?page=ges_00_intro)  
[http://www.thurrock.gov.uk/diversity/content.php?page=res\\_00\\_intro](http://www.thurrock.gov.uk/diversity/content.php?page=res_00_intro)

### Authorised Activities

'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:

- 'gaming' means playing a game of chance for a prize
- 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
- a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.

Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's licensing officers where appropriate.

### Licensing Objectives

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

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

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

### Statement of Principles

This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Act. In carrying out its functions, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission

- in accordance with any Guidance issued by the Gambling Commission
- in accordance with this Statement of Principles
- reasonably consistent with the licensing objectives.

#### Types of Licences and Permissions

Under the Act, the Gambling Commission is responsible for issuing premises licences and personal licences.

The Council in its capacity as a licensing authority will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- register small society lotteries below prescribed thresholds
- issue prize gaming permits
- receive and endorse temporary use notices
- receive occasional use notices
- provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- maintain registers of the permits and licences that are issued under these functions



- exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

#### The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission will also issue Codes of Practice under Section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.

The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Tel: 0121 230 6500  
Fax: 0121 233 1069  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
Email: [info@gamblingcommision.gov.uk](mailto:info@gamblingcommision.gov.uk)

## **General Statement of Principles**

The Council recognises the wide variety of premises that will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Licensing authority may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits. When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case.

### **Preventing gambling from being a source of crime and disorder**

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the licensing authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. The licensing authority will not generally have the authority to determine the suitability of an applicant; this is the remit of the Gambling Commission. Where concerns about a person's suitability arise the Licensing authority will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Licensing authority will, in consultation with the police and other relevant

authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime.

There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Council does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using other powers.

Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions in this regard the Licensing authority will give due weight to any comments made by the police.

#### **Ensuring gambling is conducted in a fair and open way**

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the Licensing authority may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

#### **Protecting children and other vulnerable people from gambling**

Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.

In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission

will be issuing a code of practice about access to casino premises for children and young persons.

When considering whether to grant a premises licence or permit the Licensing authority will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

In seeking to protect vulnerable people the Licensing authority will include 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 mental health needs, learning disability or substance misuse relating to alcohol or drugs*.

Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:

- betting shops cannot admit anyone under 18
- bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- Adult Entertainment Centres cannot admit those under 18
- Family Entertainment Centres and premises with an alcohol premises licence such as pub can admit under-18s, but they may not play category C machines which are restricted to those over 18
- clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

The Licensing authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## Responsible Authorities

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Licensing authority if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- the Gambling Commission
- the Police
- the Fire Service
- the Local Planning Authority
- Environmental Health
- A nominated body concerned with the protection of children from harm
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated (that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two).

Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Licensing Authority will not generally take into account representations which are deemed to be irrelevant, such as :

- there are too many gambling premises in the locality (because need for gambling facilities cannot be taken into account)
- the premises are likely to be a fire risk (because public safety is not a licensing objective)
- the location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives)
- the premises will cause crowds to congregate in one area causing noise and nuisance (because other powers are generally available to deal with these issues. It should be noted that, unlike the Licensing Act 2003, the Gambling Act does not include, as a specific licensing objective, the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws).

Each representation will, however, be considered on its own individual merits.

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

The principles are:

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

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Children, Education and Families Department at Thurrock Council for this purpose.

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

## Interested Parties

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

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

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

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

1. *Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.*

2. Interested parties can include trade associations, and residents'/tenants' associations, providing that they can show they represent someone who would be classed as an interested party in their own right. Councillors and MPs may also be interested parties. Elected councillors may represent interested parties, providing they do not also sit on the Licensing Sub-Committee determining the application in question.
3. In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the Licensing authority may take account of:
  - the size of the premises
  - the nature of the premises
  - the nature of the authorised activities being proposed
  - the distance of the premises from the person making the representation
  - the characteristics of the complainant
  - the potential impact of the premises.
4. The Licensing authority will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made objectively and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason. A report will be made to the Licensing Sub-Committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.
5. A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, guidance issued by the Gambling Commission or this statement of principles.
6. In the absence of any regulations to the contrary, representations should ideally:
  - be made in writing (preferably in duplicate, unless submitted electronically)
  - be in black ink on single sides of A4 paper
  - indicate the name and address of the person or organisation making the representation

- indicate the premises to which the representation relates
- indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this
- clearly set out the reasons for making the representation.
- *where the representations relate to the effect on a business interest an indication should be given as to the nature of the effect.*

## **Exchange of Information**

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

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

Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the licensing authority is asked to do so.

## **Enforcement**

Licensing authorities are required by regulations under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.



This licensing authority's principles are that:

It will be guided by *Part 36 of the Gambling Commission's Guidance for Local Authorities* and it will endeavour to be:

- Proportionate. It will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised
- Accountable. Decisions being justifiable, and be subject to public scrutiny
- Consistent. Rules and standards will be joined up and implemented fairly
- Transparent and open. Licence conditions will be kept simple and user friendly; and
- Targeted. Regulation should be focused on the problem, and minimise side effects.

The Licensing authority will avoid duplication with other regulatory regimes so far as possible.

It will also adopt a risk-based inspection programme to premises. Its enforcement protocols are available from the Licensing Officers or at [www.thurrock.gov.uk](http://www.thurrock.gov.uk)

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

The Gambling Commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission. This authority also understands from Local Authorities Co-ordinators of Regulatory Services (LACORS) that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

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

## PART B

### Premises Licences

#### Definition of “premises”

Premises are defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises. The Gambling Commission states in its draft Guidance for local authorities, it “will always be a question of fact in the circumstances.” The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission’s Guidance to Local Authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, “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.”

This licensing authority will also take note of the Gambling Commission’s Guidance to Local Authorities that: “Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).”

#### Provisional Statement

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 can inspect it fully”.~~

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

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:

- which could not have been raised by objectors at the provisional licence stage; or
- which is in the authority’s opinion reflect a change in the operator’s circumstances.

### Location

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. The authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

This 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 or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Under Section 210 of the Act the licensing authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. The licensing authority will however consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Gambling Commission code of practice, or this statement of principles.

### Licensing objectives

The grant of a Premises Licence must be reasonably consistent with the licensing objectives.

### Conditions

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

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

Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas etc. There are specific comments made in this regard

under each of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

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

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

#### Door Supervisors

The Gambling Commission advises in its Guidance to Local Authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

It is noted though that the Gambling Act 2005 has amended the Security Industry Act 2001 and that door supervisors at casinos or bingo premises are exempt from the need to be licensed.

#### Credit

Section 177 of the Act does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises.

Such machines may accept credit cards (and debit cards) providing the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines.

The licensing authority is aware that Gambling Commission guidance may change on this topic in the light of experience and evidence.

## **Adult Gaming Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- staff training in relation to proof of age schemes
- change machines
- advertising sources of help and other means of help for problem gamblers

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.

## **Licensed Family Entertainment Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year-olds do not have access to the adult-only gaming machine areas. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances and/or machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours

This list is not exhaustive.

Measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare will be considered in order to protect children and vulnerable persons.

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

## **Casinos**

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

## **Bingo premises**

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the licensing authority.

Amusement arcades providing prize bingo will require a prize gaming permit from the licensing authority.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type the licensing authority will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo licensed premises. Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:

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

### Members' clubs and commercial clubs

Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in Section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Gambling Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a bingo operator's licence and the corresponding personal and premises licences.

## **Betting Premises**

Anyone wishing to operate a betting office will require a betting premises licence from the Licensing authority. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

Each application will be considered on its own individual merits.

## **Tracks**

Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Licensing authority are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Although there will, primarily, be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of betting machines at a track the Licensing authority will consider the circumstances of each individual application and, among other things will



consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines

This list is not exhaustive.

Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.

### Betting machines at tracks

Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

In addition to the comments above on betting machines in betting premises, similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. The licensing authority may consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

### Condition on rules being displayed

In line with guidance from the Gambling Commission the Licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public, such as being printed in the race-card or made available in leaflet form from the track office.

## **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.

## Review of Premises Licences

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
- frivolous
- vexatious
- will certainly not cause this authority to alter, revoke or suspend the licence
- whether it is substantially the same as previous representations or requests for review
- 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

Licensing authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. Unlike the Licensing Act 2003, the licensing authority may review premises licences of its own volition. A referral to a Licensing Sub-Committee of a premises for a review will be first approved by the Head of Public Protection.

The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate. This can extend to a review of a class of licences where it considers particular issues have arisen. Reviews of a class of premises will be first agreed to by the Head of Public Protection in consultation with the Chair of the Licensing (Licensing Act 2003) Committee.

The Gambling Commission will be a responsible authority in premises licence reviews.

## PART C

### **Unlicensed Family Entertainment Centre gaming machine permits**

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

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. In preparing that 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.

A family entertainment centre (FEC) gaming machine permit cannot be granted unless the Chief Officer of Police has been consulted, and no conditions may be imposed upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

#### Statement of principles

Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include background checks on staff, training for staff in dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

Applicants will be expected 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)
- that staff are trained to have a full understanding of the maximum stakes and prizes; and
- an awareness of local school holiday times and how to identify the local education office should truants be identified.

Compliance with the Code of Practice for FECs issued by BACTA will be taken by the licensing authority as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above.

Applicants must submit with their application two copies of plans of the premises, to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.

The licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

### **(Alcohol) Licensed premises gaming machine permits**

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

Under Section 284 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 (ie, 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.

Should it be necessary to issue a Section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests.

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."

### Statement of principles

This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to the adult-only gaming machines. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

A plan must accompany applications indicating where, and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.

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

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

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

### Administrative matters

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 officers in consultation with the Chair of the Licensing (Licensing Act 2003) Committee, and applications for five or more machines will be referred to a Licensing Sub-Committee.

## **Prize Gaming Permits**

The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.

Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

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.

Applicants should set out the types of gaming they are intending to offer and should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations
- and that the gaming offered is within the law.

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

- the limits on participation fees, as set out in regulations, must be complied with
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

#### Statement of principles

This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient

measures to ensure that under-18 year olds do not have access to unequal chances prize gaming. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.

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

Members' clubs (but not commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.

### Club gaming permit

Club gaming permit allow the premises to provide:

- up to three machines of categories B, C or D
- equal chance gaming and
- games of chance as set out in regulations.

### Club gaming machine permit

A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.

The licensing authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in Sections 266 and 267 of the Act. Clubs which hold a club premises certificate under the Licensing Act 2003 are entitled to benefit from a fast-track application procedure.

## **Temporary Use Notices**

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.

## **Occasional Use Notices**

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



## APPENDIX A

A list of the persons we consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

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 represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted
  - a. BACTA
  - b. Rank Group, (Mecca Bingo Ltd)
  - c. British Beer and Pub Association
  - d. Gamcare
  - e. LeisureLink Group
  - f. Gala Group Ltd
  - g. The Association of British Bookmakers
  - h. The Bingo Association
- 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:
  - a. Chief Officer of Police
  - b. Head of Planning and Development, Thurrock Council
  - c. Head of Community Services, Thurrock Council
  - d. ~~Thurrock Urban Development Corporation~~
  - e. Thurrock Thames Gateway Development Corporation
  - f. Thurrock Local Strategic Partnership
  - g. Premises licence holders under the Licensing Act 2003
  - h. Clubs with club premises certificates under the Licensing Act 2003
  - i. Local Community Forums
  - j. Essex Fire and Rescue Authority

Our consultation took place between June and August 2009 and we followed the Revised Code of Practice on consultations by the public Sector which came into effect in July 2008. This document is available via:

<http://governance.justice.gov.uk/2008/07/22/revised-code-of-conduct-on-consultations/>

Should you have any comments as regards this document please send them via e-mail or letter to:

The Licensing Team  
Environmental Services  
Thurrock Council  
Civic Offices  
Grays  
Essex  
RM17 6SL

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

## APPENDIX B

### Gaming Machine Categories

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (In multiples of £10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

## APPENDIX C

### Gambling Act 2005 Responsible Authorities

#### Licensing Authority

The Licensing Authority	Thurrock Council Civic Offices New Road Grays Essex RM17 6SL
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#### Responsible Authorities

Essex Police	South Western Licensing Unit Wickford Police Station 14 London Road Wickford Essex SS12 0AN
The Fire and Rescue Authority	Essex Fire Authority Thurrock & Brentwood Command Fire Station Hogg Lane Grays Essex RM17 5QS
The Local Planning Authority	Development Control Division Thurrock Council Civic Offices New Road Grays Essex RM17 6SL
The Local Authority with functions related to prevention of risk of pollution of the environment	Environmental Health Team Regulation Department Thurrock Council Civic Offices New Road Grays Essex RM17 6SL

<p>The body designated by the Licensing Authority as being competent to advise on the Authority about protection of children from harm</p>	<p>Children, Education and Families Thurrock Council Civic Offices New Road Grays Essex RM17 6SL</p>
<p>The Gambling Commission</p>	<p>Victoria Square House Victoria Square Birmingham B2 4BP</p>
<p>HM Revenue and Customs</p>	<p>Greenock Accounting Centre Custom House Custom House Quay Greenock PA15 1EQ</p>

## APPENDIX D

### Glossary of Terms

**Admissible Representations:** representations submitted by a Responsible Authority or Interested Party

**Authorised Local Authority Officer:** a Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.

**Authorised Person:** a licensing officer and an officer of an authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:

- Inspectors appointed under the Fire Precautions Act 1971;
- Inspectors appointed under the Health and Safety at Work, etc. Act 1974
- Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;
- A person in a class prescribed in regulations by the Secretary of State.

**Automated Roulette Equipment:** equipment that is either linked to a live game of chance, e.g. roulette, or plays live automated games, i.e. operates without human intervention.

**Automatic Conditions:** conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.

**AWP machines:** Amusement with Prizes Machines

**BACTA:** the British Amusement Catering Trade Association

**Betting Intermediary:** someone who offers services via remote communication, such as the Internet.

**Betting Ring:** an area that is used for temporary 'on course' betting facilities.

**Betting Machine:** a machine designed or adapted for use to bet on future real events (not a Gaming Machine).

**Bingo:** a game of equal chance.

**Casino:** an arrangement whereby people are given an opportunity to participate in one or more casino games.

**Casino Games:** games of chance that are not equal chance gaming.

**Casino Premises Licence Categories:** regional, large, small, casinos permitted under transitional arrangements.

**Casino Resolution:** resolution concerning whether or not to issue Casino Premises Licences.

**Child:** an individual who is less than 16 years old.

**Christmas Day Period:** the period of 24 hours from midnight on 24 December.

**Club Gaming Machine Permit:** a permit to enable the premises to provide gaming machines (3 machines of Categories B, C or D)

**Club Gaming Permit:** a permit to enable the premises to provide gaming machines (3 machines of Categories B C or D), equal chance gaming and games of chance.

**Complex Lottery:** an arrangement where:

- Persons are required to pay to participate in the arrangement;
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a series of processes; and
- The first of those processes relies wholly on chance.

**Conditions:** conditions to be attached to licences by way of:

- Automatic provision
- Regulations provided by Sec. Of State
- Conditions provided by Gambling Commission
- Conditions provided by Licensing Authority
- Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.

**Customer Lotteries:** lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels.

**Default Conditions:** conditions that will apply 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.

**Delegated Powers:** decisions delegated by the Licensing Authority either to a Licensing Committee, Sub-Committee or Licensing Officers.

**Disorder:** in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.

**Domestic Computer:** one used for in a residential property for private, non-commercial purposes and is exempt from a Gaming Machine Permit.

**Dual Use Computer:** *definition in forthcoming Regulations.* Exempt from a Gaming Machine Permit.

**Equal Chance Gaming:** games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants

**EBT:** Electronic Bingo Ticket Minders consisting of electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo.

**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
- Private Lotteries
- Customer Lotteries

**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.

**Fixed Odds Betting:** general betting on tracks.

**Gaming:** 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 and where the prizes are determined by the operator before the play commences.

**Gaming Machine:** a machine used for gambling under all types of gambling activity, including betting on virtual events.

**Guidance to Licensing Authorities:** guidance issued by the Gambling Commission dated April 2006.

**Human Rights Act 1998:** Articles 1, 6, 8 and 10

Article 1: Protocol 1 – the right to peaceful enjoyment of possessions

Article 6: - the right to a fair hearing

Article 8: - the right of respect for private and family life

Article 10: - the right to freedom of expression

**Inadmissible Representation:** a representation not made by a Responsible Authority or Interested Party.

**Incidental non-commercial lottery:** a lottery that is run as an additional amusement at non-commercial events with tickets only sold and drawn during the event, such as a raffle at a dance, bazaar etc.

**Information Exchange:** exchanging of information with other regulatory bodies under the Gambling Act.



**Interested Party:** a person who in the opinion of the licensing authority:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities, or
- represents persons above, including Trade Associations, Trade Unions, Residents and Tenants Associations where they can demonstrate that they represent such persons.

In determining if a person lives or has business interests sufficiently close to the premises, the following factors will be considered: -

- The size and nature of the premises to be licensed.
- The distance of the premises from the location of the person making the representation.
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment).
- The nature of the complaint, i.e. not the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises.
- The catchment area of the premises (i.e. how far people travel to visit).
- Whether the person making the representation has business interests that might be affected in that catchment area.

**Irrelevant Representations:** representations that are vexatious, frivolous or will certainly not influence the authority's determination of the application.

**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 type of lottery requires an operating Licence from the Gambling Commission.

**Licensed Lottery:** large society lotteries and lotteries run for the benefit of local authorities will require operating licences to be issued by the Gambling Commission.

**Licensing Objectives:** there are three objectives

- 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

**Live Gaming:** gambling on a live game as it happens.

**Lottery:** an arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

**Lottery Tickets:** every lottery must have tickets for each chance:

- Identifying the promoting society
- Stating the price of the ticket, which must be the same for all tickets
- Stating the name and address of the member of the Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and
- Stating the date of the draw, or sufficient information to enable the date of the draw to be determined.

**Mandatory Conditions:** conditions that must be attached to a premises licence, to a class of premises licence or licences for specified circumstances.

**Members Club:** a club must have at least 25 members, be established and conducted 'wholly or mainly' for purposes other than gaming, be permanent in nature, not established to make commercial profit and controlled by its members equally.

**Non-commercial Event:** an event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain.

**Non-commercial Society:** a society established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or for any other non-commercial purpose other than that of private gain.

**Occasional Use Notice:** a notice that may only be issued in respect of a track, that permits betting on a track without the need for a premises licence and which only the person responsible for administration of events on the track or the occupier of the track may issue.

**Off Course Betting:** betting that takes place in self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days.

**On Course Betting:** betting that takes place on a track while races are taking place.

**Operating Licence:** a licence issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling, including remote or non remote gambling.

**Permit:** an authorisation issued by the licensing authority to provide gambling facilities where the stakes and prizes are low or gambling is not the main function of the premises.

**Personal Licence:** a licence issued by the Gambling Commission to individuals who control facilities for gambling or are able to influence the outcome of gambling.

**Pool Betting (Tracks):** pool betting may only be offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.

**Premises:** 'any place' including anything (other than a sea-plane or amphibious vehicle) designed or adapted for use on water, a hovercraft or anything or any place situated on or in water. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises.

**Premises Licence:** a licence issued by the licensing authority to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres where an operator's licence and personal licence have been issued by the Gambling Commission. A licence is restricted to one premise only but one set of premises may have separate licences issued in respect of different parts of the building.

**Private Lottery:** there are three types of private lottery:

- 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:** gaming in which the nature and size of the prize is not determined by the number of players or the amount paid for or raised by the gaming, the prizes having been determined before play commences, e.g. bingo with non-cash prizes. (NB: bingo with cash prizes and that carried on in commercial bingo halls will need to be licensed by the Gambling Commission; prize gaming does not include gaming by use of gaming machines.)

**Prize Gaming Permit:** a permit issued by the licensing authority to authorise the provision of facilities for gaming with prizes on specific premises.

**Provisional Statement:** an application to the licensing authority in respect of premises that are:

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

**Relevant Representations:** representations that relate to the Gambling Licensing Objectives, the Gambling Commission's Guidance, the Codes of Practice.

**Responsible Authorities:** public bodies for the area in which the premises are mainly or wholly situated:

- Licensing authority in whose area the premise is partly or wholly situated
- Chief Officer of Police
- Fire & Rescue Service
- Planning Authority
- Environmental Health (related to pollution and harm to human health)
- Body competent to advise on protection of children from harm, i.e. Children, Education and Family Services
- Authority in relation to vulnerable adults
- Navigation Authority whose statutory functions are in relation to waters where a vessel is usually moored or berthed
- Environment Agency
- British Waterways Board
- Maritime & Coastguard Agency
- HM Revenue & Customs
- Gambling Commission

**Simple Lottery:** an arrangement where:

- Persons are required to pay to participate in the arrangement
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class and
- The prizes are allocated by a process which relies wholly on chance.

**SWP:** a Skills-with-Prizes machine

**Skills with Prizes Machine:** a machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. SWP's are unregulated.

**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.

**Small Operations:** independent on-course betting operators with only one or two employees or a bookmaker running just one shop.

**Statement of Principles:** matters the licensing authority may publish in the Statement of Licensing Principles that they intend to apply when considering an applicant's suitability in applications for permits for unlicensed family entertainment centres and prize gaming.

**Temporary Use Notice:** a notice that may be issued in respect of a set of premises where there is no premises licence, but where a person or company holding an operating licence relevant to the proposed temporary use of

premises wishes to use the premises temporarily for providing facilities for gambling.

**Totalisator (Tote):** the only permitted operators of pool betting on horseracing tracks.

**Track:** a site where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.

**Travelling Fair:** a fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.

**Vehicles:** includes trains, aircraft, sea-planes and amphibious vehicles other than hovercraft.

**Vessel:** anything (other than a sea-plane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything or part of any place situated on or in water.

**Virtual Betting:** gambling by machine that takes bets on virtual races, i.e. images generated by computer to resemble races or other events.

**Vulnerable Persons:** no set definition *within the Act*, but likely to mean group to include people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

**Young Person:** an individual who is over 16 years of age but who is under 18 years of age.

## GUIDANCE 1

### REPRESENTATIONS / REVIEWS / HEARINGS / APPEALS

#### **Who can make representations or seek reviews?**

Only 'Interested Parties' and 'Responsible Authorities' may make 'relevant representations' in respect of applications made for the grant or variation of a premises licence and may seek a review of licences granted.

#### **What are relevant representations?**

'Relevant representations' generally fall into two categories – those in relation to an application for the grant or variation of a premises licence and those for an application to review a premise's licence.

Representations will be relevant if they:

- relate to the promotion of the licensing objectives, the Statement of Licensing Principles, the Gambling Commission's Guidance or any Codes of Practice, and
- are made within the prescribed period and have not been withdrawn.

**Representations will not be relevant if they relate solely to issues such as demand, planning, traffic congestion, public nuisance or fire. This list is not exhaustive and each case will be judged on its own merits. However it should be noted that there is no appeal against the Authority's determination of whether a representation is relevant, or not.**

The table below lists those provisions about which representations may be made, the timescales within which and by whom they may be made.

<b>Provision under which hearing is held</b>	<b>Period of time within which representations must be made</b>	<b>Persons who may make representations</b>
Application for premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Application for a provisional statement	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Application to vary premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties

Application for transfer of premises licence	14 days of receipt of application.	Chief of Police
Application for review of premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Interested parties
Counter notice to temporary use notice*	14 days of receipt of temporary use notice.	Those bodies upon whom the notice must be served
Counter notice to Occasional Use Notice		Licensing authority

\*It should be noted that the licensing authority must issue a counter notice where the use of the same premises under a Temporary Use Notice or Occasional Use Notice would exceed the permitted limits, which are 21 days per 12-month period in respect of TUN's and 8 days per calendar year in respect of OUN's.

### Reviews

The licensing authority must hold a hearing to review a premises licence where an application is made in the prescribed form by a Responsible Authority or Interested Party seeking a review of the licence unless in the opinion of the licensing authority the grounds on which the review is sought:

- are not relevant to the licensing objectives, the Statement of Licensing Principles, the Gambling Commission's Guidance or any Codes of Practice,
- are frivolous, vexatious or will certainly not cause the authority to revoke, suspend, remove, amend or attach conditions to a licence,
- are identical or substantially similar to:
  - grounds in an earlier application for review made in respect of the same premises and already determined, or
  - representations considered by the licensing authority in granting the premises licence or certificate, or
  - representations which would have been considered except they were excluded representations following a provisional statement, and
  - a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

**It should be noted that there is no appeal against the authority's determination of whether a representation is relevant, or not.**

## Hearings

A hearing must be held within a prescribed period of time where relevant representations are made in respect of any licensing application or issue of a Temporary Use Notice.

Notices must be sent to each party informing them of the date of hearing at least 10 working days before the day of the hearing in respect of all applications except:

- (a) notices must be sent at least 2 working days before the day of the hearing for cancellation of an interim authority notice and counter notice to a temporary use notice following police objection, and
- (b) notices must be sent at least 5 working days before the day of the hearing for review of a premises licence following a closure order, determination of an application for conversion of an existing licence or club certificate and determination of an application by the holder of a justice's licence for the grant of a personal licence.

**Copies of the representations must also be given to the applicant, the holder of the premises licence or the club, as appropriate.**

The table below lists the provisions, the timescales within which hearings have to be held and the persons to whom notices must be given.

<b>Provision under which hearing is held</b>	<b>Period of time in which hearing must be held</b>	<b>Persons to whom notices must be sent</b>
Application for premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application for a provisional statement	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application to vary premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations.
Application for transfer of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of Police Holder of licence.



Application for review of premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations. Applicant.
Counter notice following objection to temporary event notice	7 working days beginning with the day after the end of the period for making representations.	The premises user. Chief of Police

### **Appeals Against Decisions**

Any person aggrieved by the decision of the Licensing Committee can appeal to the Magistrates' Court.

## GUIDANCE 2

### PREMISES LICENCES / TEMPORARY USE NOTICES / OCCASIONAL USE NOTICES

This guidance covers only those aspects concerning the issue of premises licences, temporary use notices and occasional use notices that are the responsibility of the licensing authority; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link: - [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

#### PREMISES LICENCES

**A premises licence is required for any premises where gambling activity is carried out of a type requiring personal and operating licences to have been issued by the Gambling Commission.**

An application may only be made by persons having the right to occupy the premises and who have, or have applied for, an operating licence allowing the proposed activities to be carried out. The premises licence cannot be granted until the necessary operating licence has been issued.

**Premises licences are issued by the licensing authority and are required for casinos, bingo premises, betting premises (including tracks and premises used by betting intermediaries) adult gaming centres and family entertainment centres providing category C gaming machines.**

A licence is restricted to one premise only. However one set of premises may have separate licences issued in respect of different parts of the building.

Licensing authorities are obliged to grant an application for a premises licence, provided the application is made in accordance with the Act, the Gambling Commission's guidance and the licensing authority's Statement of Licensing Principles. The licence will be subject of mandatory and default conditions applied by regulations issued under the Act.

**Premises licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the licensing authority.**

## **Bingo, Betting, Arcades (Adult gaming centres & Licensed family entertainment centres)**

### New licences or permissions

Applicants wishing to commence operating must have a Gambling Commission Operator's Licence.

### **Tracks**

An operating licence is not required from the Gambling Commission to operate a track but a premises licence from the licensing authority is required. A number of premises licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires operators to hold either a general betting operating licence or a pool betting operating licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse-tracks) and by the premises licence-holder (in relation to dog-tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of four machines of categories B2 – D, may be operated at a track by the premises licence-holder provided they hold a pool betting operating licence (for siting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's Guidance'* at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

Betting machines may also be operated at tracks (see *'Betting Machines'*).

**The licensing process is the same as for other premises described above.**

### **Betting Machines**

Betting machines are used for accepting bets on live events such as racing, in place of making bets at a counter, e.g. in a betting shop or on a track. These machines are not classed as gaming machines. The licensing authority may impose a limit on the number of betting machines that may be used in conjunction with a premises licence.

### **Gaming Machine Supply and Repair**

These activities require operating licences to be issued by the Gambling Commission. For advice on applying for licences from the Commission, see their website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

### Gaming Machines in Licensed Premises

Premises licences issued under the Gambling Act 2005 automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also 'Tracks').

The Gambling Act 2005 introduces new classes of gaming machines, as shown in figure 1 below. The category and number of machines that may be operated under a premises licence are shown in figure 2 below.

**Fig. 1**

<b>Category of machine</b>	<b>Maximum Stake £</b>	<b>Maximum Prize £</b>
A	Unlimited	Unlimited
B1	2	4000
B2	100 (in multiples of £10)	500
B3	1	500
B3A	1	500
B4	1	250
C	50p	25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

**Fig. 2**

Premises Type	Machine category							
	A	B1	B2	B3	B4	C	D	
Regional casino (machine/ table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)							
Large casino (machine/ table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)						
Small casino (machine/ table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)						
Pre-2005 Act casinos (no machine/ table ratio)		Maximum of 20 machines categories B to D or C or D machines instead						
Betting premises and tracks occupied by Pool Betting				Maximum of 4 machines categories B2 to D				
Bingo Premises					Maximum of 4 category B3 or B4 machines	No limit on category C or D machines		
Adult gaming centre					Maximum of 4 category B3 or B4 machines	No limit on category C or D machines		
Family entertainment centre (with premises licence)						No limit on category C or D machines		

## TEMPORARY USE NOTICES (TUN'S)

*The Secretary of State has the power to determine what form of gambling can be authorised by a Temporary Use Notice (TUN). Statutory Instrument 3157; The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 state that TUN's can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner.*

A TUN may only be issued by a person or company holding an operating licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12-month period. (NB. A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of "a set of premises", the licensing authority will consider, amongst other things, the ownership / occupation and control of the premises.

The licensing authority should generally aim to permit gambling activities under a TUN but will 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.

#### Issue

Not less than 3 months and 1 day prior to the day on which the gambling event is to take place, a TUN must be given to:

- the licensing authority
- the Police
- HM Commissioners for Revenue and Customs, and, if applicable
- any other licensing authority in whose area the premises are situated.

The notice must include details of:

- the date the notice is given
- the gambling activity to be carried on
- the premises where it will take place
- the dates and times it will take place
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by regulations.

If there are no objections, the notice will be endorsed by the licensing authority and returned to the issuer for display upon the premises at the time the activity takes place.

#### Objections

Having regard to the licensing objectives, those authorities upon whom the TUN is served may make objections within 14 days of the date of the notice to the gambling activity taking place. Objections must be made to the licensing authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector/s object to the new notice.

A hearing must be held before the Licensing Sub-Committee to hear representations from all parties, unless agreement is reached that a hearing is unnecessary, e.g. by modification of the notice, within 6 weeks of the date of the notice.

Following a hearing the licensing authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

## **OCCASIONAL USE NOTICES (OUN'S)**

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premise on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a betting premises licence for the track.

### Issue

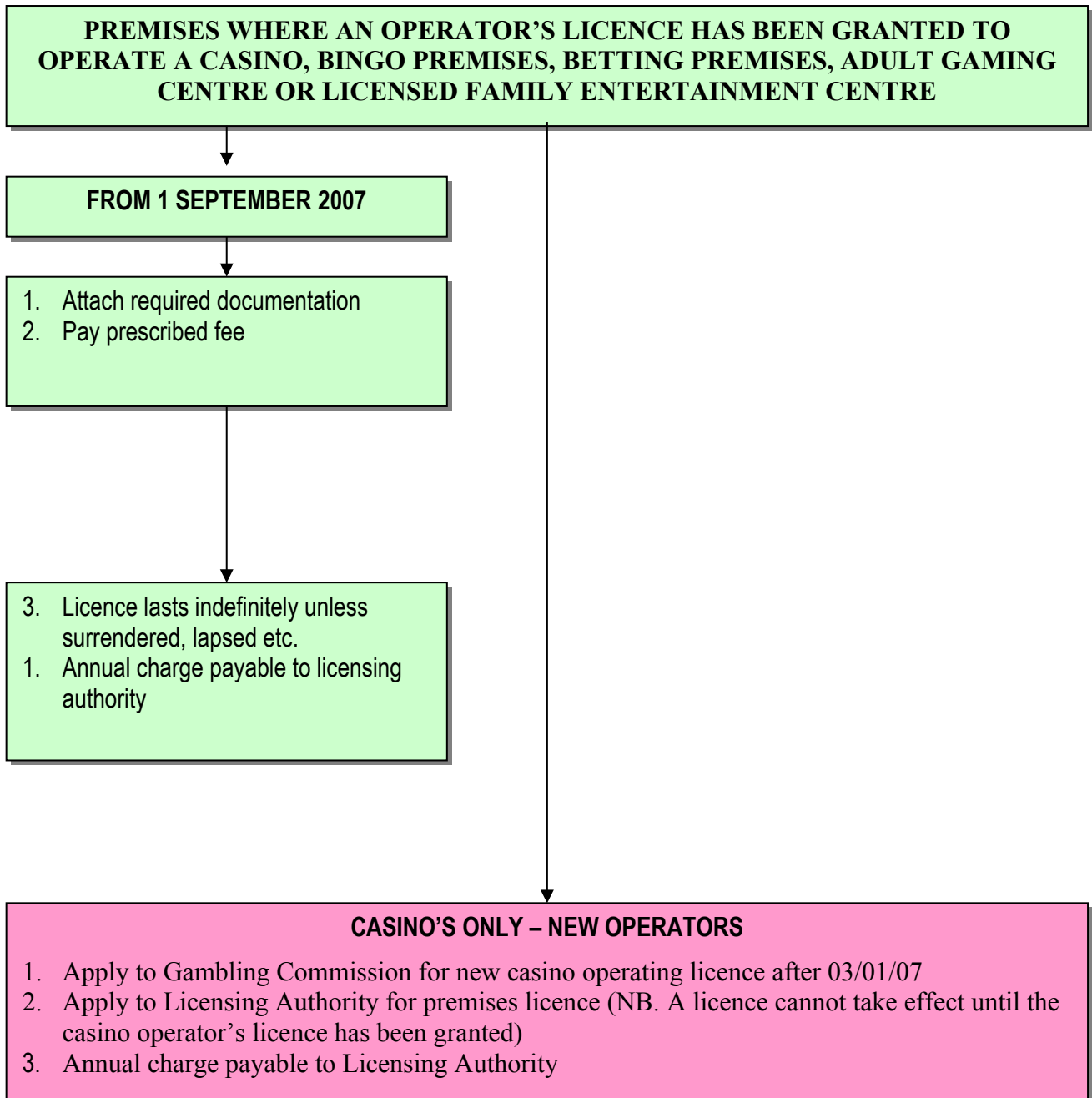
The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track.

The notice must be served on the licensing authority and a copy on the Chief Officer of Police.

### Objections

Generally objections may not be made to the issue of an OUN, except the licensing authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

## PREMISES LICENCES





## GUIDANCE 3

### GAMING PERMITS

Certain types of gambling are authorised by permits issued by the licensing authority. The permits generally authorise low stake gambling for small prizes by:

- Gaming machines in alcohol-licensed premises, member's clubs, unlicensed family entertainment centres (FEC's) and certain other premises, e.g. taxi offices (see '*Other Premises*' below);
- Equal chance gaming, games of chance and gaming machines in member's clubs; and
- Prize gaming, e.g. at travelling fairs.

#### Gaming Machines

The Gambling Act 2005 introduces new classes of gaming machines that may be operated under a permit, as shown in figure 1.

Fig. 1

Category of Machine	Maximum Stake £	Maximum Prize £
B4	1	250
C	50p	25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

The category and number of machines that may be operated under a premises licence are shown in figure 2 below.

Fig. 2

Premises Type	Machine category						
	A	B1	B2	B3	B4	C	D
Clubs or miners' welfare institutes with permits						Maximum of 3 category B4 to D machines	
Qualifying alcohol licensed premises upon notification						Automatic entitlement up to 2 category C or D machines	
Qualifying alcohol licensed premises with gaming machine permit					Unlimited category C or D machines, as specified on permit		
Family entertainment centre (with permit)							Unlimited category D machines
Travelling fair							Unlimited category D machines

### **Alcohol Licensed Premises**

Certain types of gambling may take place on alcohol-licensed premises under the Licensing Act 2003 without any authorisation being required. Generally these consist of the playing of cribbage, dominoes and other games for low stakes.

Premises holding a premises licence may be authorised to operate machines of class C or D provided the premises licence authorises the sale and supply of alcohol for consumption on the premises without it being a condition that the sale and supply of alcohol has to be accompanied by food.

The following paragraphs apply only to those premises.

#### **Automatic entitlement**

The Gambling Act 2005 gives an automatic entitlement for the holder of a premises licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a permit is not required but premises licence-holders must notify their licensing authority in writing of their intention to provide the machines, and pay the prescribed fee.

The entitlement may be withdrawn if provision of the machines is not reasonably consistent with the pursuit of the licensing objectives; gaming has taken place on the premises that has breached a condition of the Act, e.g. they do not comply with siting and operation requirements; the premises are mainly used for gaming; or where an offence under the Gambling Act 2005 has been committed on the premises.

The licensing authority may not exercise their powers to remove the entitlement without first giving the permit-holder the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

### **New permits**

Where the holder of a premises licence wishes to provide more than two gaming machines, an application for a permit must be made to the licensing authority with the prescribed fee. There is no restriction on the number of machines that may be applied for and applications to vary the number of machines may be made at any time.

In determining an application for an increase in the number of machines, the licensing authority will consider:

- the size of the premises;
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
- any documentary evidence, e.g. supporting statistical evidence providing details of usage, etc.;
- each application on its own merits;
- the Codes of Practice or Guidance issued under the Gambling Act 2005.

Where the authority grants the application, a permit will be issued for the number of machines authorised, which will include the automatic entitlement of two machines.

Where the authority intend to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

Where the premises licence is transferred, the gaming machine permit must also be transferred or it will lapse. In all other cases the permit will last indefinitely, unless surrendered or revoked.

Although the permit will not need to be renewed, an annual charge will have to be paid to the licensing authority.

### **Transitional arrangements**

A permit issued under Section 34 that is in force on 1 September 2007 will continue to have effect until its natural expiry date.

**Where a 'Section 34 Permit' for two or less machines expires after 1 September 2007, at least two months before its expiry the premises licence-holder must notify the licensing authority in writing of their intention to provide two (or less) machines and pay the prescribed fee.**

**Where a 'Section 34 Permit' for more than two machines expires after 1 September 2007, the premise's licence-holder must apply for a new permit at least two months before its expiry and pay the prescribed fee. A new permit must be issued for the same number of machines the previous permit authorised.**

### **Member's Clubs**

The Gambling Act 2005 permits a member's club holding a club premises certificate issued under the Licensing Act 2003, or miner's welfare institute, to hold a **club gaming permit** allowing participation in equal chance gaming or playing games of chance (see 'Appendix A' for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of three machines of either class B4, C or D.

The Act also permits a member's club holding a club premises certificate or a commercial club holding a premise's licence under the Licensing Act 2003 to operate a maximum of three machines of either class B4, C or D under a **club machine permit**.

### **New permits**

Applications for a permit for premises already holding a club premises certificate are subject to a 'fast-track' procedure that prevents the making of objections, and restricts the ability of the licensing authority to refuse the application.

An application under this process may be refused if the club is established primarily for gaming (other than that permitted); if in addition to the permitted gaming, facilities are provided for other gaming; or that a club machine permit issued to the applicant within the preceding 10 years has been cancelled.

An application and payment of the prescribed fee is required. A permit has effect for 10 years unless surrendered or revoked.

Applications for a permit for premises not holding a club premises certificate e.g. a commercial member's club with a premises licence, may be refused by the licensing authority on the grounds that the applicant does not fulfil the requirements for a member's or commercial club; the premises are used wholly or mainly by children and / or young persons; an offence under the Act or 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 10 years; an objection has been made by the police or Gambling Commission.

Permits may be varied at any time to meet changing circumstances, other than an increase above three to the number of machines. Licensing authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a permit.

A permit will lapse if the holder no longer qualifies as a member's club or no longer qualifies under the 'fast-track' system, or the permit is surrendered. A permit may be cancelled if the premises are used wholly or mainly by children and / or young persons or where an offence under the Act or breach of a permit condition has been committed by the applicant in the course of gaming activities.

Permits are valid for 10 years from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the licensing authority.

### **Transitional arrangements**

A registration that is in force on 1 September 2007 will continue to have effect until its natural expiry date. Upon expiry a club will be entitled to apply for either a club gaming permit or club machine permit irrespective of the type of registration previously held.

An application for a new club machine permit must be made at least two months before the existing registration expires together with the prescribed fee.

### **Other Premises (taxi offices, take-away restaurants, etc.)**

Premises holding a permit under Section 34 of the Gaming Act 1968 are prohibited from obtaining a new gaming machine permit under the Gambling Act 2005 and will be unable to operate gaming machines of any kind after their current permit expires.

### **Transitional arrangements**

A permit issued under Section 34 of the Gaming Act 1968 that is in force on 1 August 2006 will continue to have effect until its natural expiry date, e.g. a permit issued on 1 July 2006 will expire on 30 June 2009.

### **Unlicensed Family Entertainment Centres**

The licensing authority may grant an application for a permit for category D gaming machines in an unlicensed family entertainment centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

The authority will apply its Statement of Principles in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Criminal Record Bureau in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

The authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

Where the authority intends to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the licensing authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

Permits will last for 10 years unless it ceases to have effect because it is surrendered, it lapses or it is renewed. There is no annual charge payable to the licensing authority.

Unlicensed FEC's may also offer equal chance gaming under the authority of their gaming machine permit.

### **Prize gaming**

Prize gaming may be carried on in premises under a permit issued by the licensing authority. A prize gaming permit will not authorise the use of gaming machines.

The authority may apply its Statement of Principles in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

The authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Criminal Record Bureau in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

Where the authority intends to refuse an application, the applicant must be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the licensing authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

A prize gaming permit will last for 10 years unless it ceases to have effect or is renewed. There is no annual charge payable to the licensing authority.

#### **Prize gaming without a permit**

Prize gaming without a prize gaming permit may be carried on in any premises with a premises licence issued under the Gambling Act 2005, except that casinos may not offer prize bingo.

Unlicensed FEC's may also offer equal chance gaming only, under the authority of their gaming machine permit.

Travelling fairs may also offer equal chance gaming only without a permit provided the facilities for gaming are ancillary amusements to the fair.

#### **Travelling Fairs**

Travelling fairs do not require a permit to provide gaming machines but must comply with codes of practice on how they are operate.

Travelling fairs may provide an unlimited number of category D machines and prize gaming in the form of equal chance gaming provided that facilities for gambling amount to no more than ancillary amusement at the fair.

## ALCOHOL LICENSED PREMISES

**PREMISES WHERE THE LICENCE PERMITS THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES AND THE SALE IS NOT CONDITIONAL UPON FOOD BEING SOLD MAY HAVE GAMING MACHINES OF CLASS C OR D**

**FROM 1 SEPTEMBER 2007**

### **UP TO 2 MACHINES**

1. Automatic entitlement to 2 machines
2. Notify Licensing Authority in writing of proposed intention to operate machines.
3. Pay prescribed fee

### **MORE THAN 2 MACHINES**

1. Apply to Licensing Authority
2. Attach statistical justification showing 'need'
3. Attach plan of premises showing location of machines
4. Pay prescribed fee

1. Permit has effect from 01/09/06 or date of grant unless surrendered or cancelled
2. Annual charge to be paid to Licensing Authority

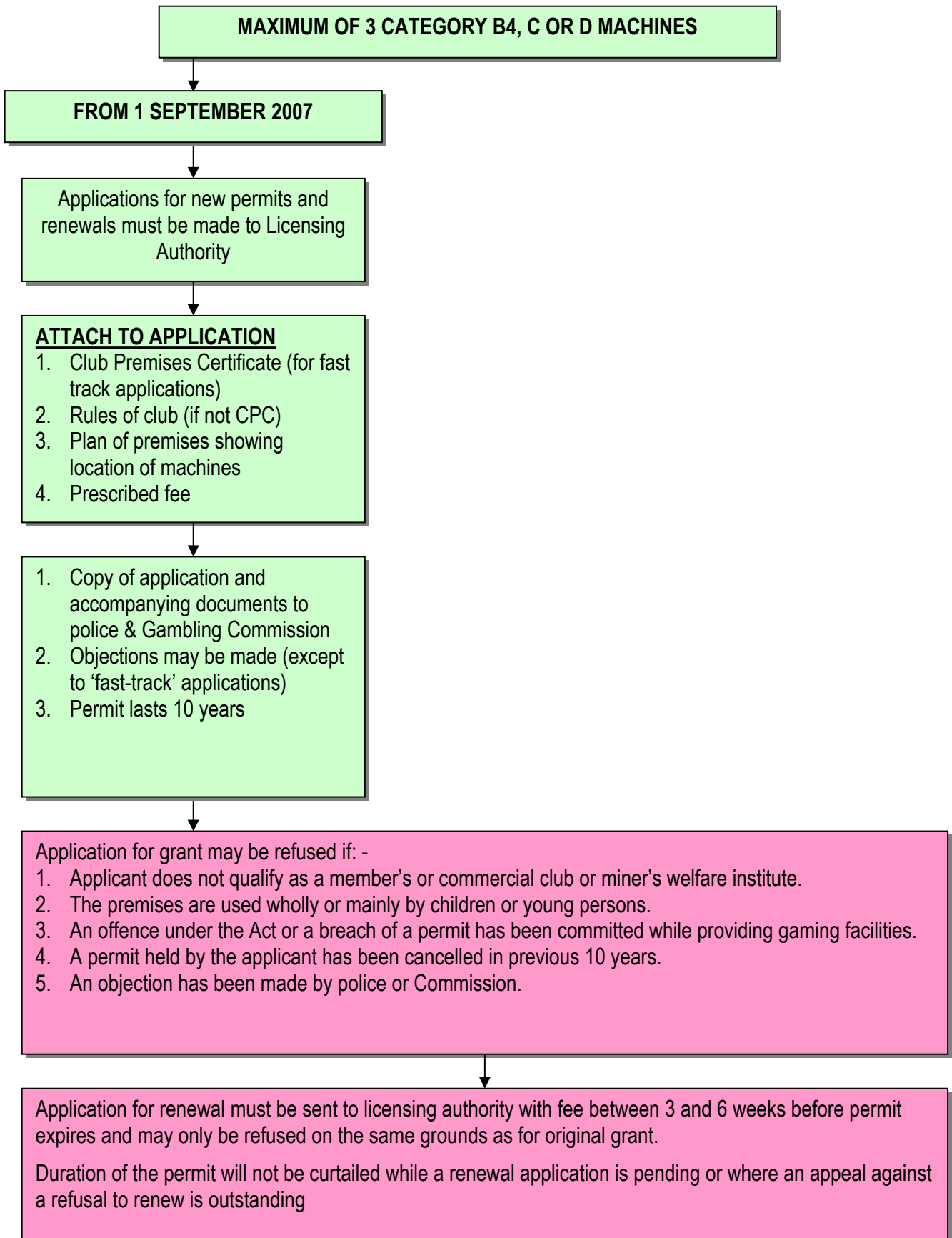
1. Licensing authority can withdraw entitlement for 2 machines where their provision is not consistent with licensing objectives; gaming has taken place in breach of a condition; premises are used mainly for gaming; an offence under the Act has been committed.
2. Licensing authority can cancel a permit where the premises are used wholly or mainly by children or young persons or an offence under the Act has been committed.

**BUT**

1. Permit holder must be given 21 days notice of the intention to withdraw or cancel
2. Hearing must be held if permit holder requests one
3. Withdrawal or cancellation has no effect until 21 days has elapsed from notice being served where no hearing is requested or 21 days following a hearing or appeal.



## MEMBER'S CLUBS



## UNLICENSED FAMILY ENTERTAINMENT CENTRES

**PERMIT MAY BE ISSUED FOR PREMISES WHOSE PRIMARY USE IS AS AN UNLICENSED FAMILY ENTERTAINMENT CENTRE TO HAVE AN UNLIMITED NUMBER OF GAMING MACHINES OF CLASS D**

**NEW PERMIT TO OPERATE AFTER 1 SEPTEMBER 2007**

1. Apply after 31/01/07
2. Attach information required by Statement of Principles
3. Attach plan of premises showing location of machines
4. Consult Chief of Police
5. Pay prescribed fee

2. Applications made before 27/04/07 will ensure continuation rights
3. Permit has effect from 01/09/07
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to licensing authority with fee between 2 and 6 months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if: -

1. Licensing authority notifies holder premises are no longer being used as an unlicensed FEC
2. Holder no longer occupies premises
3. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation
4. Court orders holder to forfeit permit
5. Holder surrenders or fails to renew it

## PRIZE GAMING PERMIT

**PRIZE GAMING PERMITS MAY ONLY BE ISSUED IN RESPECT OF PREMISES FOR WHICH THERE IS NO PREMISES LICENCE OR CLUB GAMING PERMIT ISSUED UNDER THE GAMING ACT 2005**

**NEW PERMIT TO OPERATE AFTER 1 SEPTEMBER 2007**

1. Apply after 31/01/07
2. Attach information required by Statement of Principles
3. Attach plans of premises
4. Pay prescribed fee

1. Applications made before 27/04/07 will ensure continuation rights
2. Permit has effect from 01/09/07
3. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the licensing objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to licensing authority with fee between 2 and 6 months before permit expires and may only be refused if an authorised officer has been refused access to the premises w/o reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

Permits will lapse if: -

1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitate, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew it

## GUIDANCE 4

### LOTTERIES

A lottery is unlawful unless it is run in accordance with an operating licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The Gambling Act 2005 defines four categories of lottery that are exempt from needing an operating licence:

**Incidental non-commercial lottery:** run as an additional amusement at non-commercial events such as a raffle at a church bazaar, with tickets only being sold and drawn during the event.

**Private lottery:** that require membership of a society, place of work or single place of residence.

**Customer lottery:** run by occupiers of a business for the benefit of customers who can only buy tickets sold on the premises, e.g. a shop selling tickets for a Christmas hamper.

**Small society lottery:** a lottery promoted on behalf of a non-commercial society, i.e. a lottery run by a society established and conducted for charitable purposes; or of enabling the participation in or support of sport, athletics or cultural activity; or for other non-commercial purposes other than private gain.

Only a small society lottery is required to be registered with the licensing authority.

Applications must be made by the promoting society to the licensing authority for the area in which the principal address of the society is located. The licensing authority must record details of the society in a register and notify the applicant and the Gambling Commission of the registration.

The licensing authority will require applicants to declare:

- the purposes for which the society is established
- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions.

The licensing authority may refuse an application if:

- they consider the applicant is not a non-commercial society
- any 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 an application is false or misleading.

An application shall be refused if an operating licence held or applied for by the applicant has been revoked or refused in the previous five years.

The licensing authority may revoke a registration where it believes the grounds exist that would permit or require it to refuse an application for registration.

Where the licensing authority intend to refuse or revoke the registration application it will give the society:

- details of the reasons
- evidence upon which it reached the decision, and
- the opportunity to make written and/or oral representations.

### **New registrations**

~~Up to 31 August 2007, an application for registration with the prescribed fee must be made to the licensing authority under the Lotteries and Amusements Act 1976.~~

From 1 September 2007, an application for registration with the prescribed fee must be made to the licensing authority under the Gambling Act 2005. The registration will be valid indefinitely with an annual fee being payable to the licensing authority.

### **Transitional arrangements**

~~Applications for new registration, or renewal of an existing registration, before 1 September 2007 should be made to the Licensing Authority in the normal way under the Lotteries and Amusements Act 1976. The registration will be issued under that Act whether or not the application has been determined by 1 September 2007.~~

~~Where the 3 year registration period extends beyond 1 September 2007, the registration will expire on the 3<sup>rd</sup> anniversary of the original registration. The annual renewal and payment of the prescribed fee must be made on the interim anniversary/s of the original registration.~~

### **Lottery requirements**

To ensure the main purposes of the lottery are met:

- the society must apply a minimum of 20% of the proceeds of the lottery to the purposes of the society,
- no single prize may exceed £25000,
- rollovers may be permitted provided every lottery affected is also a small society lottery by the same society and the maximum single prize does not exceed £25000, and
- every ticket must cost the same and must be paid for before being entered into the draw.

## **Returns**

No later than three months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the licensing authority that:

- has been signed by two members of the society over 18 years of age who are appointed for the purpose in writing by the society, or its governing body, if it has one,
- is accompanied by a copy of the member's letter of appointment

and include the following details:

- the dates when tickets were available for sale,
- the dates of any draw and value of prizes, including any rollover,
- the proceeds raised,
- the amounts deducted for prizes and expenses incurred in organising the lottery,
- the amount applied or to be applied to the purposes of the promoting society, and
- whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source/s from which they were paid.

## **External lottery managers**

External lottery managers require operating licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## SMALL SOCIETY LOTTERIES

**PROMOTED BY A NON-COMMERCIAL SOCIETY ESTABLISHED FOR CHARITABLE PURPOSES; FOR PURPOSE OF ENABLING PARTICIPATION IN OR OF SUPPORTING SPORT, ATHLETICS OR CULTURAL ACTIVITY; OR FOR OTHER NON –COMMERCIAL PURPOSES OTHER THAN PRIVATE GAIN**

**REGISTRATION FROM  
1 SEPTEMBER 2007**

1. Attach information required: -
  - (a) Purpose for which society established
  - (b) Confirm bona fides of society as non-commercial
  - (c) Declare convictions, if any
2. Pay prescribed fee
3. Registration valid for life, annual fee payable to licensing authority

Lottery requirements: -

1. Society must apply minimum 20% of proceeds to purposes of society
  2. No single prize to exceed £25000
  3. Rollovers permitted provided all lotteries effected are small society lotteries & maximum single prize does not exceed £25000
  4. Tickets must cost same, be paid for before being entered in draw & include details of society, price, name & address of person responsible for promotion of the lottery & date of draw
- Returns, which must be made no later than 3 months after draw, must be signed by 2 members and include details of: -
5. Dates tickets were available for sale, dates of draw & value of prizes
  6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery & where any were paid for other than from proceeds of lottery, the amount and source
  7. Amount to be applied to purposes of the promoting society

Registration may be refused if: -

1. Society is not considered to be non-commercial
2. Any person connected with promotion of lottery has been convicted of relevant offence , or
3. Information provided in application is false/misleading

Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous 5 years

Registration may be revoked where grounds exist for an application for registration to be refused.

BUT a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them & been given the opportunity to make representations