



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING COMMITTEE**

**TUESDAY 11TH SEPTEMBER 2018**  
**AT 6.00 P.M.**

**PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,**  
**WORCESTERSHIRE, B61 8DA**

MEMBERS: Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman),  
M. T. Buxton, M. Glass, H. J. Jones, C. M. McDonald, S. R. Peters,  
S. P. Shannon, M. A. Sherrey, L. J. Turner and S. A. Webb

**AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest  
  
To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 11th June 2018 (Pages 1 - 6)
4. Animal Establishment Licensing Reforms (Pages 7 - 14)
5. Gambling Act 2005 - Review of Statement of Principles (Pages 15 - 56)
6. Licensing Committee Work Programme (Pages 57 - 58)

7. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

20th August 2018



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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE LICENSING COMMITTEE**

**MONDAY, 11TH JUNE 2018, AT 6.03 P.M.**

PRESENT: Councillors M. T. Buxton, B. T. Cooper, R. L. Dent, M. Glass, H. J. Jones, C. M. McDonald, S. R. Peters, M. A. Sherrey, L. J. Turner and S. A. Webb

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

1/18 **ELECTION OF CHAIRMAN**

A nomination for Chairman was received in respect of Councillor R. L. Dent.

**RESOLVED** that Councillor R. L. Dent be elected as Chairman for the ensuing municipal year.

2/18 **ELECTION OF VICE-CHAIRMAN**

A nomination for Vice-Chairman was received in respect of Councillor C. J. Spencer.

**RESOLVED** that Councillor C. J. Spencer be elected as Vice-Chairman for the ensuing municipal year.

3/18 **APOLOGIES**

Apologies for absence were received from Councillors C. J. Spencer and S. P. Shannon.

The Committee were informed that Councillor B. Cooper was in attendance as the substitute Member for Councillor C. J. Spencer.

4/18 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

5/18 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 12th March 2018 were submitted.

**RESOLVED** that, the minutes of the meeting of the Licensing Committee held on 12th March 2018 be approved.

6/18

## **LICENSING ACT 2003 - APPROVAL FOR CONSULTATION OF REVISED STATEMENT OF LICENSING POLICY**

The Committee considered a report which detailed the draft revised Statement of Licensing Policy for the purpose of consultation with relevant partners.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing so informed the Committee that the Council's existing Statement of Licensing Policy, under the licensing Act 2003, had taken effect on 1st April 2014. In accordance with the provisions of the Act, the Council was required to determine and publish a Statement of Licensing Policy at least every five years. Therefore a new Statement of Principles must be published by 1st April 2019.

The draft revised Statement of Licensing Policy, attached at Appendix 1 to the report, detailed a number of amendments and additional sections (highlighted in red text), that had been made to the document to reflect the changes to legislation and guidance that had taken effect since the last Statement of Licensing Policy, 1st April 2014.

The following new sections had been included:

- To explain the implications of the Immigration Act 2016 on the exercise of the Council's functions under the Licensing Act 2003.
- Information on how the Council would deal with applications for personal licences and how it would deal with situations where it was considering suspending or revoking personal licences. The power to suspend or revoke personal licences was given to licensing authorities as a result of provisions within the Policing and Crime Act 2017.
- Information in relation to the local powers to deregulate the licensing of late night refreshment providers that were introduced under the Deregulation Act 2015.
- The section explaining the Live Music Act 2012 and other entertainment licensing deregulation had been updated to reflect further deregulatory measures that had taken effect since the last Statement of Licensing Policy was published.
- The section regarding cumulative impact had been rewritten to reflect changes that had been made to licensing authorities powers to adopt special polices on cumulative impact as a result of the provisions of the Policing and Crime Act 2017.

Consultation on the revised draft Statement of Principles would take place with all of the relevant parties, as detailed in paragraph 3.16 of the

report. The consultation would be carried out over a period of eight to twelve weeks. Responses received to the consultation would be presented to a future meeting of the Licensing Committee.

The Senior Licensing Practitioner, WRS, responded to questions from Members and explained that with regard to Cumulative Impact, the evidence had to be there, evidence from the local police.

A Cumulative Impact Assessment (CIA) could be published by a licensing authority to help it limit the number or types of licence applications granted in the areas where there was evidence to show that the number or density of licensed premises in the area was having a cumulative impact and leading to problems which were undermining the licensing objectives.

Currently the Council had not published a CIA as there was not currently any evidential basis on which to base such a decision.

The Senior Licensing Practitioner, WRS, responded to further questions with regard to those consulted with; and if the Council's Depot services could be included on the list of consultees, as they had to deal with excess litter / rubbish from premises.

The Committee were informed that the relevant parties consulted with, as detailed in paragraph 3.16 of the report, was a prescribed list of consultees and that list could not be expanded by officers. The Senior Licensing Practitioner, WRS, suggested that it was more appropriate for officers from the depot, who attended the Bromsgrove Town Centre meetings; to raise any issues or concerns with regards to excess litter / rubbish from any licensed premises across the district, at the Bromsgrove Town Centre meetings.

**RESOLVED** that the draft revised Statement of Licensing Policy, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant parties.

7/18

## **REFORM OF ANIMAL ACTIVITIES LICENSING LEGISLATION - INFORMATION REPORT**

The Committee considered a report on the licensing of various animal-related establishments as a result of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing so informed the Committee that Bromsgrove District Council were currently responsible for functions in relation to the licensing and regulation of various animal-related activities, which WRS carried out on their behalf.

Paragraph 3.5 in the report, detailed the activities regulated and the legislation under which the Council currently licenced people to carry out

# Agenda Item 3

Licensing Committee  
11th June 2018

the activities. In addition to this, Worcestershire County Council (Trading Standards) were currently the authority responsible for the registration of those who train or exhibit performing animals under the Performing Animals (Regulation) Act 1925.

Section 13 of the Animal Welfare Act 2006 provided the Secretary of State with powers to repeal parts of the existing legislation and replace it with a new licensing or registration regime.

In December 2015, the Department for Environment, Food and Rural Affairs (DEFRA) launched a consultation on some of the proposals to introduce new secondary legislation under section 13 of the Animal Welfare Act to implement a single “Animal Establishment Licence” for animal boarding establishments, pet shops, riding establishments and dog breeding establishments.

In February 2017, DEFRA published a further document entitled “The review of animal establishments licensing in England – Next Steps”, as attached at Appendix 1 to the report.

The document sets out a summary of the decisions made by DEFRA about changes to the licensing system for animal establishments in England following the consultation exercise.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, as attached at Appendix 2 to the report, were eventually made on 16th April 2018 and were scheduled to come into force on 1st October 2018.

Under the regulations the existing licensing schemes for animal boarding establishments and dog breeders were to be repealed and replaced by a new single licensing scheme that would regulate all of these activities and would also incorporate the licensing of those who train or exhibit performing animals.

The current licensing schemes for zoos and those who keep dangerous animals was not affected by the regulations and would continue to be carried out under the existing legislative provisions.

Some of the main differences in the new licensing scheme had been detailed in paragraph 3.13 of the report. One major change, was the number of litters a dog breeder could produce in a 12 month period before they were presumed to require a licence, had been reduced from five litters to three litters. There were new powers for licensing authorities to vary, suspend and revoke licences where there was non-compliance or it was necessary to protect the welfare of an animal; currently only the courts could remove licences.

Detailed guidance on the implementation of the new regulations was still being awaited from DEFRA and it was anticipated to be published this summer.



Licences issued under the existing legislative provisions and that remained in force on 1st October 2018 would continue to have effect until they expired. At that point an application would need to be completed by the operator for a licence under the new licensing scheme.

Paragraph 3.16 in the report detailed the work that WRS would need to carry out in preparation for the implementation of the new regulations.

**RESOLVED** that the report on the Animal Establishment Licensing Reforms, be noted.

8/18

## **LICENSING ANNUAL REPORT 2017/2018**

The Committee considered the Licensing Annual Report 2017/2018.

The report provided an overall view of the activities, under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing, and informed the Committee of any issues anticipated in the ensuing year, as required under the Council's Licensing Act 2003 and Gambling Act 2005.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing explained that the report provided the Committee with information on the work undertaken by WRS on behalf of Bromsgrove District Council; and that he was happy to take any questions on the contents of the report.

The Senior Licensing Practitioner, WRS, responded to questions from Members and explained that the "Best Bar None" scheme was an accredited scheme with National Awards support by the Home Office and the drinks industry, aimed at promoting responsible management and operation of alcohol licensed premises.

A number of WRS officers had attended the one day Level 2 accreditation course, B11AB Award in Assessment of Licensed Premises (Social Responsibility) (QCF). The Level 2 accreditation course was funded for the first year of the scheme by the Community Safety Partnership. Accredited WRS officers were now able to conduct assessments in and around Worcestershire and beyond Worcestershire for other local authorities.

The Senior Licensing Practitioner, WRS, informed the Committee that with regard to Street Collections, only one complaint had been received in the last twelve months.

**RESOLVED** that the Licensing Annual Report 2017/2018 be noted.

9/18

**LICENSING COMMITTEE WORK PROGRAMME 2018/2019**

The Committee considered the Work Programme for 2018/19.

**RESOLVED** that the Licensing Committee Work Programme for 2018/2019 be noted.

The meeting closed at 6.35 p.m.

Chairman

**ANIMAL ESTABLISHMENT LICENSING REFORMS**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 Members have previously received a report providing information to Members on upcoming reforms that are being made in relation to the licensing of various animal-related establishments as a result of the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018.
- 1.2 Further to that report, Members are now asked to consider recommending changes to the Worcestershire Shared Services Agreement dated 1<sup>st</sup> April 2016.
- 1.3 Members are also asked to recommend the proposed fees and charges for the new “Animal Activity Licence” which have been calculated on a cost recovery basis.

**2. RECOMMENDATIONS**

- 2.1 **The Committee is asked to recommend to Council that:**
  - i) **Determination of all licensing applications in respect of Animal Welfare Act 2006 is removed from para 3, Schedule 2, Part II (Matters not Delegated) of the Worcestershire Shared Services Agreement dated 1 April 2016**
  - ii) **The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 are added to Schedule 1 Appendix, Part II of the Worcestershire Shared Services Agreement dated 1 April 2016.**
  - iii) **The following wording is added to Part II “Animal Health and Welfare” section of Appendix 1- Statement of Partner Service Requirements to Worcestershire Shared Services Agreement dated 1 April 2016.**

<b>Activity</b>	<b>Outcomes/ critical success factors</b>	<b>Performance measures/ key performance indicators and targets</b>	<b>Applicable polices, strategies, service standards, statutory codes or guidance</b>
Licensing of Activities Involving Animals	Premises meet Licensing Conditions and License issued on time. Animal welfare issues addressed assured and protected. All appropriate persons and premises licensed.	Compliance with License conditions and standards.	The Animal Welfare Act 2006 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- iv) **Approval of the proposed fees and charges as detailed in the report at Appendix 1.**

### 3. KEY ISSUES

#### Financial Implications

- 3.1 The costs of implementing the new reforms and the administration of the new licensing scheme will require additional resource. New fees have been calculated and set to reflect this additional staffing resource requirement and the additional work involved; funding of which will be shared between partner authorities on a proportionate basis based on the number of licences granted in each district.
- 3.2 Officers have calculated proposed fees and charges with regards to the regulations and have included in the calculations the costs arising from:
- Time spent assessing, administering and processing applications
  - Time spent for having experienced Licensing Officers reviewing applications
  - Storage of applications
  - Assessing the suitability of applicants and reviewing relevant offences
  - Undertaking the necessary site inspections and additional visits which are now required
  - The decision making on whether to issue a licence
  - The cost of issuing licences in a format that can be displayed.
  - Ongoing compliance with the regulations
- 3.3 The costs associated with dealing with any contested licence applications, have also been included in these calculations.

- 3.4 A schedule of the proposed fees and charges has been prepared which is attached to this report at **Appendix 1**. The proposed fees and charges for licences issued under the new regulations will need to be approved by Council before 1 October 2018.

**Legal Implications**

- 3.5 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 are scheduled to come into force on 1 October 2018. These regulations are made under the Animal Welfare Act 2006 and will replace the licensing regime and legislation currently in place.
- 3.6 Under the Bromsgrove District Council's Constitution officers have delegated powers in respect of licensing and registration functions to exercise authority (including approval and refusal, suspension and revocation, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and any re-enactment or replacement or consolidation of the statutes or regulations or guidance, or any modifications or extensions thereof) as a result it is not necessary to formally delegate the administration of licensing activities under the new regulations.
- 3.7 However the new regulations necessitate changes to the delegations to WRS under the Shared Services Agreement, adding the new regulations to the list of legislation relevant to delegated functions covered by Schedule 1, Part II of the Agreement.
- 3.8 In order for these changes to be facilitated and implemented, all six Worcestershire District Councils will need to agree that the items listed at section 2 of this report are recommended to Full Council to be incorporated into the WRS Shared Services Agreement and Statement of Partnership Requirements.
- 3.9 In addition the new regulations are very prescriptive in how matters should be conducted both in the granting and refusal of a licence and due to this very prescriptive nature of the regulations the Licensing authority is under strict limitations in respect of how it deals with each application lending the new regime to a much more administrative approach to animal licensing than the previous one. This leaves no Committee pathway to be utilised within the process. The prescriptive nature of the regulations will assist officers in both situations; with the right of any appeal to the First Tier Tribunal in the event of a refusal. As a result of this restrictive nature of the new regime it is proposed that the determination of all licences under the Animal Welfare Act 2006 is removed from Schedule 2 (Matters Not Delegated) allowing

therefore for the determination of all licences under the new regime to be covered by Schedule 1, Part II of the Agreement (Functions Delegated) and that the Statement of Partner Service Requirements to the Agreement is amended accordingly to allow officers to grant and refuse licences.

**Service / Operational Implications**

- 3.10 On 11<sup>th</sup> June 2018, the Licensing Committee received a report to inform Members of upcoming reforms to the licensing of animal related establishments as a result of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 3.11 This report explained that under the regulations the existing licensing schemes for animal boarding establishments, pet shops, riding establishments and dog breeders will be repealed and replaced by a new single licensing scheme that will regulate all of these activities and will also incorporate the licensing of those who train or exhibit performing animals.
- 3.12 Some of the main differences in the new licensing scheme are as follows:
- A licence will be able to authorise more than one activity (for example animal boarding and dog breeding activities will be able to be authorised by the same licence)
  - Licences will be able to be issued for a one, two or three year period (based on an assessment of risk)
  - Standard licence conditions are prescribed by the regulations rather than each authority deciding its own licence standard conditions for its area
  - The number of litters a dog breeder can produce in a 12-month period before they are presumed to require a licence will be reduced from five litters to three
  - There are new powers for licensing authorities to vary, suspend and revoke licences where there is non-compliance or it is necessary to protect the welfare of an animal
  - Inspections of premises will be required on a more frequent basis
- 3.14 At the time this report is being prepared, the detailed guidance on the implementation of the new regulations is still being awaited from DEFRA.

- 3.15 Licences issued under the existing legislative provisions and that remain in force on 1 October 2018 will continue to have effect until they expire. At that point an application will need to be made by the operator for a licence under the new licensing scheme.
- 3.16 Worcestershire Regulatory Services has been preparing for the implementation of the new regulations by:
- Liaising with the district Councils on setting appropriate licence fees to ensure full cost recovery
  - Informing existing licence holders of the forthcoming changes
  - Updating content on the Council and WRS websites
  - Liaising with Worcestershire County Council (Trading Standards) with regards those currently registered under the Performing Animals (Regulation) Act 1925
  - Training officers on the new licensing scheme
  - Updating computer systems to support the implementation of the new regulations
- 3.17 In order to be able to successfully implement the regulations from 1<sup>st</sup> October 2018, Members are now asked to recommend to Council matters relating to the delegation of functions and the setting of fees under the regulations.

## **RISK MANAGEMENT**

- 4.1 In order to fully administer the requirements of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 appropriate delegations will need to be in place to the Head of Worcestershire Regulatory Services, as highlighted in the recommendation of the report.

## **5. APPENDICES**

Appendix 1 – Schedule of Fees

## **AUTHOR OF REPORT**

Name: Dave Etheridge – Senior Practitioner (Licensing)  
Worcestershire Regulatory Services

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**Animal Establishments**

**Proposed Licensing Fees and Charges**

Activity Type	VET Fees	Application Fee	Variation Fee	1 Year Licence Fee	2 Year Licence Fee	3 Year Licence Fee	Inspection
Animal Boarding	at cost	322	235	180	357	535	160
Dog Breeding	at cost	322	235	180	357	535	160
Pet Shop	at cost	322	235	180	357	535	160
Performing Animals (no risk assessment)	at cost	215	155	N/A	N/A	290	160
Riding Establishments	at cost	322	235	180	357	535	160

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**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31<sup>st</sup> January 2016. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore a new Statement of Principles must be published by 31<sup>st</sup> January 2019.

On 12<sup>th</sup> March 2018, the Licensing Committee approved a draft revised Statement of Principles for consultation purposes. The results of the consultation are now being reported back to the Committee who are asked to recommend to Council that the draft revised Statement of Principles be approved and published.

**2. RECOMMENDATIONS**

**Members are asked to RESOLVE;**

**To recommend to Council that the revised draft Statement of Principles at Appendix 2 be approved and published.**

**3. KEY ISSUES**

**Financial Implications**

3.1 The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.

**Legal Implications**

3.2 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.

- 3.3 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 3.4 When revising its Statement of Principles, the Council is required to consult with:-
- the Chief Officer of Police for the Authority's area;
  - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
  - 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 this Act.

### **Service / Operational Implications**

- 3.5 Bromsgrove District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.6 Each licensing authority is required before each successive three year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.
- 3.7 The Council's current Statement of Principles took effect on 31<sup>st</sup> January 2016 and therefore a new Statement of Principles must now be prepared and published ready to take effect on 31<sup>st</sup> January 2019.
- 3.8 Whilst there have been no significant amendments to the provisions of the Gambling Act 2005 itself since the last Statement of Principles took effect, there have been changes made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators have to comply with. The Gambling Commission has also updated its Guidance to Licensing Authorities (GLA).
- 3.9 On 12<sup>th</sup> March 2018, the Licensing Committee approved a draft revised Statement of Principles for consultation purposes.
- 3.10 Consultation on the revised draft Statement of Principles took place with all relevant parties including:
- The Chief Officer of West Mercia Police
  - The Gambling Commission
  - All other responsible authorities identified under the Act

- Relevant Trade Associations
  - The Public Health Team at Worcestershire County Council
  - Organisations working with people who are problem gamblers
  - Parish Councils
  - The general public
- 3.11 The consultation was also be made available for comment via the Council's website and publicised via social media and also through the local press.
- 3.12 The consultation exercise began on the 3<sup>rd</sup> May 2018 and remained open for comments until 27<sup>th</sup> July 2018.
- 3.13 There were three substantive responses received during the consultation from the Public Health Team at Worcestershire County Council, Dodford Parish Council and from a consultant that works for a gambling premises operator who has premises in the licensing authority's area.
- 3.14 The Public Health Team has requested some minor changes to the wording contained in the part of the Statement of Principles relating to Public Health and Gambling in order to provide a firmer commitment to engagement with them in this area. The changes they requested have been incorporated into the draft revised Statement of Principles shown at **Appendix 2**.
- 3.15 In their response, Dodford Parish Council recommended restrictions are placed on the number of betting shops in Bromsgrove High Street as this could be ruining the character of the town. However, it is not possible to impose such restrictions under the Gambling Act 2005 and every application has to be determined on its own merits.
- 3.16 The response from the consultant can be seen at **Appendix 1**. In response to the first point raised, the revised Statement of Principles has been amended to clarify that when an applicant for an unlicensed family entertainment centre is a limited company, a Basic Disclosure certificate will need to be supplied in respect of each director of the company concerned.
- 3.17 In response to the second point raised by the consultant, officers do not believe that the wording in section 10 of the draft revised Statement of Principles implies gambling premises are inappropriate in town centres. This section simply sets out some of the matters that the licensing authority would expect gambling operators to consider when carrying out their own local risk assessments.

3.18 The draft revised Statement of Principles is also clear that in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives

3.19 Members of the Committee are now asked to consider the responses and recommend to Council that the draft revised Statement of Principles at **Appendix 2** be approved and published.

#### **4. RISK MANAGEMENT**

4.1 Failing to prepare and publish a new Statement of Principles by 31<sup>st</sup> January 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

#### **5. APPENDICES**

Appendix 1 – Consultation Response from Consultant

Appendix 2 – Draft Revised Statement of Principles

#### **AUTHOR OF REPORT**

Name: Dave Etheridge – Senior Practitioner (Licensing)  
Worcestershire Regulatory Services

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Tel: (01905) 822799

**From:** Roger [REDACTED]  
**Sent:** 03 May 2018 13:56  
**To:** WRS Enquiries  
**Subject:** Gambling Act Policy consultation

I have received a copy of the above and am pleased to be a consultee.  
I have 2 comments:-

1. Whilst I have no prospective applicant in mind I have come across the suggestion elsewhere which is at 19.5 in your revised Statement that *'The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.'*

What happens if the applicant is a company?

That is not a circumstance that your policy seems to contemplate.

2. The LCCP and the way in which gambling premises have to be managed (I have in mind AGCs and Bingo premises) with detailed policies in place to identify the vulnerable and exclude them or enable them to exclude themselves means that they can be suitable in most areas without giving rise to problems. They are situated in town centres which are a gathering point for all members of the community and so their management has to take into account the likely presence of problem gamblers in town centres. I am not aware of a problem with Worcestershires gambling premises at the moment.

If, as seems to be implied, gambling premises are deemed inappropriate in areas where the vulnerable are most numerous, in town centres, then that would potentially make the current pattern of premises inappropriate.

In summary, I consider your proposed changes at section 10 will leave the Council to determine licence applications in accordance with the views of your 'public health teams' with insufficient regard being paid to the obligations placed on operators by the LCCP (Gambling Commission - Licence Conditions and Codes of Practice) and the way they conduct their premises.

Yours

**Roger Etchells FRICS**  
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**Bromsgrove**  
District Council  
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## **REVISED STATEMENT OF PRINCIPLES**

### **GAMBLING ACT 2005**



**2019 - 2022**

# Agenda Item 5

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## Statement of Principles – Gambling Act 2005

### 1.0 Introduction

- 1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately 95,750 and in terms of area it covers approximately 84 square miles. The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery. Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.
- 1.2 A map of the District of Bromsgrove can be seen at Appendix A.
- 1.3 Bromsgrove District Council's overall vision is "working together to build a district where people are proud to live and work, through community leadership and excellent services." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These 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, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between July and September 2015 in line with current published Government consultation principles. Should you have any comments as regards this policy statement please send them via email or letter to: [wrsenquiries@worcsregservices.gov.uk](mailto:wrsenquiries@worcsregservices.gov.uk)
- 1.5 This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.
- 1.6 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.7 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## **2.0 Gambling Act 2005**

2.1 This policy reflects and aims to support our strategic purposes, as set out in the Council Plan.

2.2 The Act provides for gambling to be authorised in a number of different ways.

2.3 Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

## **3. The Gambling Commission**

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 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. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission’s role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at:

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or by phone: 0121 230 6666.

## 4.0 Local Area Profile

- 4.1 Alongside its Statement of Principles, the Licensing Authority has worked with the other Licensing Authorities in Worcestershire and other partners to develop a “Local Area Profile” for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.
- 4.2 This Local Area Profile takes account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile has been proactive engagement with responsible authorities as well as other organisations in the area that could give input to ‘map’ local risks in the area.
- 4.3 These include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as GamCare or equivalent local organisations.
- 4.4 The aim of the Local Area Profile is to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which forms a part of any new licence application, or any application made to vary a licence.
- 4.5 The Local Area Profile is published on the Licensing Authority’s website and will be updated on a regular basis to reflect changes to the local environment. Holder’s of premises licences will be notified whenever the Local Area Profile is updated.

## 5.0 Authorised Activities

- 5.1 ‘Gambling’ is defined in the Act as 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, and
  - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

## 6.0 General Statement of Principles

- 6.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we 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 relevant Guidance issued by the Gambling Commission
  - in accordance with this Statement of Principles, and
  - reasonably consistent with the licensing objectives.
- 6.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 6.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 6.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 6.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 6.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 6.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

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

- 7.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 7.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 7.3 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, we 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. This could include a requirement for Security Industry Authority (SIA) registered door supervisors.
- 7.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where 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; we will then consider 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.
- 7.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 7.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

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

- 8.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 8.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **9.0 Protecting children and vulnerable people from being harmed or exploited by gambling**

- 9.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 9.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 9.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 9.4 When determining a premises licence or permit we will consider whether any additional 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 like pubs, clubs and betting tracks.
- 9.5 In seeking to protect vulnerable people we 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, perhaps due to a mental impairment, alcohol or drugs.
- 9.6 We 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 these considerations against the overall principle of aiming to permit the use of premises for gambling.
- 9.7 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.

These 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.
- 9.8 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Board for this purpose.



## 10. Public Health and Gambling

- 10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.
- 10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.
- 10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.
- 10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.
- 10.6 The licensing authority will therefore engage with the local Public Health team in the further development of this Statement of Principles and the Local Area Profile. It is planned that the Public Health team will be able to help the Licensing Authority:
  - Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
  - Make decisions that benefit and protect the health and wellbeing of local communities.
  - Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
  - Conduct a health-impact assessment of gambling in the local area or assess any existing information.

## 11.0 Local Risk Assessments

- 11.1 Since 6 April 2016 it has been a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

11.2 The Licensing Authority will expect the local risk assessment to consider, for example:

- whether the premise is in an area of deprivation;
- whether the premise is in an area subject to high levels of crime and/or disorder;
- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
- the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
- how vulnerable persons as defined within this Policy are protected.

11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy and the Local Area Profile.

11.4 Other matters that the risk assessment may include are, for example:

- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
- Where installed, details of CCTV coverage and how the system will be monitored.
- Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
- The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
- Where only one staff member is employed – in the case of smaller premises, – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
- Provision of signage and documents relating to games rules, gambling care providers.
- The mix of gambling provided.
- Consideration of primary gambling activity and location of gaming machines.

11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. The Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.

11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence, to grant the licence with special conditions or to refuse the application.

- 11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.
- 11.9 The Licensing Authority expects local risk assessments to be kept under review and updated as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

## **12.0 Premises licences**

- 12.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
  - bingo premises
  - betting premises, including betting tracks
  - adult gaming centres
  - family entertainment centres
- 12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 12.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 12.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

- 12.5 The Secretary of State appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove was not identified as a suitable location for a casino, consequently we are currently prevented from granting a Casino Premises Licence.
- 12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 12.7 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 12.8 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.9 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 12.10 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 12.11 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 12.12 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
  - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 12.13 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

12.14 Applicants for 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.

12.15 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

## **13.0 Responsible authorities**

13.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk), and will be sent on request.

- The Gambling Commission
- The Chief Officer of Police for the Area
- Fire and Rescue Service
- Bromsgrove District Council Planning Department
- Bromsgrove District Council Licensing Department (WRS)
- Bromsgrove District Council Environmental Health (WRS)
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, Canal and River Trust, Secretary of State.

13.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **14.0 Interested Parties**

14.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

14.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

- 14.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :
- the size of the premises
  - the nature of the premises
  - the distance of the premises from the person making the representation
  - the nature of the complainant
  - the potential impact of the premises
- 14.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:
- the size of the premises
  - the catchment area of the premises, and
  - whether the person making the representation has business interests in the catchment area that might be affected
- 14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 14.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant,
  - whether it raises an issue relevant to the licensing objectives, or
  - whether it raises issues specifically to do with the premises which are the subject of the application.

## **15.0 Licence conditions**

- 15.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use 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. We will not have recourse to a pool of standard conditions.
- 15.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.
- 15.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also

expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

- 15.4 We will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
  - relating to gaming machine categories or method of operation,
  - which specify that membership of a club or other body is required, or
  - in relation to stakes, fees, winnings or prizes.
- 15.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **16.0 Gaming Machines**

- 16.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.
- 16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 16.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :
- casinos
  - bingo premises
  - betting premises, (including tracks )
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs
- 16.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.
- 16.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **17.0 Gambling in Alcohol Licensed Premises**

- 17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.
- 17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.
- 17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

Automatic entitlement to two gaming machines

- 17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so 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 s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

### Licensed Premises Gaming Machine Permits

- 17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.
- 17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with



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the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

- 17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.
- 17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee, unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

- 17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

## Exempt Gaming

- 17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.
- 17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:
- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
  - the premises are mainly used for gaming
  - an offence under the Act has been committed on the premises.
- 17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## 18.0 Gambling in Clubs

### Defining Clubs

- 18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:
- members' clubs (including miners' welfare institutes)
  - commercial clubs.
- 18.2 This is an important distinction in respect of the gaming that may take place.
- 18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.
- 18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.
- 18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.
- 18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

### Exempt Gaming

- 18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However in order to qualify as exempt gaming, clubs

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may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.

- 18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

## Club Gaming Permits

- 18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

- 18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.

- 18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Club Machine Permits

- 18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

- 18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.

- 18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Applications for Club Gaming Permits and Club Machine Permits

- 18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.

- 18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

18.20 The Licensing Authority can only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- b) the applicant's premises are used wholly or mainly by children and/or young persons
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- d) a permit held by the applicant has been cancelled in the previous ten years
- e) an objection has been lodged by the Commission or the police.

18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.

18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.

18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

#### Determining Applications for Club Gaming Permits

18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.

18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.

18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.

18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

## Maintenance of Permits

- 18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

## Cancellation and forfeiture of permits

- 18.32 The Licensing Authority may cancel the permit if:
- the premises are used wholly by children and/or young persons
  - an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.
- 18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.
- 18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.
- 18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

## Renewal of permits

- 18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.
- 18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.
- 18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

## 19.0 Unlicensed Family Entertainment Centre Permits

### Introduction

- 19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.
- 19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

### Applications for Unlicensed Family Entertainment Centre Permits

- 19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.
- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made. Where the applicant is a company, a Basic Disclosure certificate must be supplied in respect of each director of the company.

### Consideration of Applications

- 19.6 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.

19.9 The Licensing Authority may also consider asking applicants to demonstrate:

- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that employees at the premises are suitably vetted
- that employees are trained to have a full understanding of the maximum stakes and prizes.

19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

19.11 The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit

19.12 The permit may lapse for a number of reasons, namely:

- if the holder ceases to occupy the premises
- if the Licensing Authority notifies the holder that the premises are not being used as an uFEC
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist, or goes into liquidation.

### Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.



## 20.0 Prize Gaming Permits

- 20.1 Gaming is prize gaming if 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. Normally the prizes are determined by the operator before play commences.
- 20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

- 20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.
- 20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.
- 20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

### Consideration of Applications

- 20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 20.7 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions.
- 20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 20.10 A permit cannot be issued in respect of a vessel or a vehicle.

20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:

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

20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.

20.14 The permit may lapse for a number of reasons:

- if the holder ceases to occupy the premises
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if a company holding the permit goes into liquidation
- if the holder (for example a partnership) otherwise ceases to exist.

#### Renewal of a Prize Gaming Permit

20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.

20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

### **21.0 Temporary Use Notices**

21.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

## 22.0 Occasional Use Notices

- 22.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 22.2 The Licensing Authority will share information with the Gambling Commission in relation to any Occasional Use Notices received. The Licensing Authority may also work in partnership with the Gambling Commission to carry out test purchase operations involving licensed operators that are providing facilities for betting in reliance on an Occasional Use Notice.

## 23.0 Lotteries

### Introduction

- 23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.
- 23.2 An arrangement is a simple lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a process which relies wholly on chance.
- 23.3 An arrangement is a complex lottery if:
- persons are required to pay to participate
  - one or more prizes are allocated to one or more members of a class
  - the prizes are allocated by a series of processes
  - the first of those processes relies wholly on chance.
- 23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.
- 23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.

23.6 The Licensing Authority defines 'society' as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

23.7 Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

### Registration Applications

23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society's principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.

23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.

23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society
- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

23.13 The Licensing Authority may refuse an application for registration if they think that—

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with the application for registration is false or misleading.

23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

#### Promotion of small society lotteries once registered

23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets
- taking action where there are unlawful attempts to purchase tickets.

23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
- the date of the draw, or information which enables the date to be determined.

- 23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
- 23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 23.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

## Financial Returns

- 23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 23.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
  - no single prize may be worth more than £25,000
  - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed
- 23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

23.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

### Revocation of a registration

23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

## **24.0 Exchange of Information**

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

24.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.

24.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council's website [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk).

24.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.

24.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## **25.0 Enforcement Protocols**

25.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of



illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.

- 25.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 25.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- 25.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.
- 25.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, Medium and Low and will also carry out 'non routine' evening programmed inspections. Where a one off event takes place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
- 25.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

## **26.0 Reviews**

- 26.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
  - Consistent with the licensing objectives
  - In accordance with our statement of principles.
- 26.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

26.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

26.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

DRAFT

### Map of the District of Bromsgrove



### List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

Director of Public Health

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

#### Gambling Trade Associations:

Association of British Bookmakers

British Amusement Catering Trade Association

Bingo Association

National Casino Forum

Lotteries Council

Hospice Lotteries Association

#### Organisations working with those who have a gambling problem:

GamCare

Gamblers Anonymous

## **LICENSING COMMITTEE**

**11<sup>th</sup> September 2018**

### **11<sup>th</sup> SEPTEMBER 2018**

Animal Establishment Licensing Reforms

Gambling Act 2005 – Consideration of responses to consultation on revised Statement of Principles

### **12<sup>th</sup> NOVEMBER 2018**

Licensing Act 2003 — Consideration of responses to consultation on revised Statement of Licensing Policy

Hackney Carriage and Private Hire Penalty Points Scheme – review of the scheme

Acceptable level of tint on windows of licensed hackney carriage and private hire vehicles

### **18<sup>th</sup> MARCH 2019**

Review of Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers – Approval to consultation

### **To Be Allocated To Suitable Available Dates in 2018/2019**

Hackney Carriage and Private Hire Penalty Points Scheme – regular update reports on the scheme to continue into 2018/2019

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