

# Statement of Gambling Principles

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# **1 Statement of Gambling Principles**

## **1.1 Introduction**

The Gambling Act 2005 (referred to in this document as 'the Act') requires the Council to prepare and publish a Statement of Gambling Principles ('Statement') that sets out the policies that West Berkshire Council as Licensing Authority ('the Licensing Authority') will generally apply to promote the licensing objectives when making decisions on applications made under the Act. It also gives details of our expectations of applicants and licence-holders.

The purpose of this Statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Commission's Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.

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, the Statement 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.

This Statement has been prepared having regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the Statement. The list of those consulted can be found at Appendix A. The full list of comments made and the consideration by the Council of those comments is available on request.

The Statement will come into effect on the 31 January 2019 and will be reviewed as necessary, and at least every 3 years from the date of adoption.

## **1.2 The Borough of West Berkshire**

West Berkshire Council is a Unitary Authority and is predominantly rural, with an area making up over half of the geographical county of Berkshire, covering an area of 272 square miles. The population is relatively young when compared across the UK, although this is made up of a significant proportion of people aged between 30 – 50 rather than significant numbers of people in their 20s.

The District is perceived to be in an area of some affluence having 5 main areas of conurbation spread evenly across the Council's area of jurisdiction. Newbury Racecourse is situated in the centre of the largest town in the District and some rural areas of the district are world renowned for their involvement in the training and stabling of race horses.

## **1.3 Licensing Objectives**

In exercising functions under the Gambling Act 2005, the Licensing Authority will have regard to the licensing objectives as set out in the Act. The licensing objectives are:

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

- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

This Licensing Authority is aware that, in accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of principles.

## **1.4 Licensable Activities**

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

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

The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences.

The Gambling Commission is responsible for remote (online) gambling, operating licences and personal licences.

This licensing authority is responsible for issuing premises licences and provisional statements for the following types of premises:

- Casinos
- Bingo premises
- Betting premises and tracks
- Adult gaming centres
- Family entertainment centres.

Additional functions of this licensing authority are to:

- issue permits for gambling and gaming machines in clubs
- receive notifications from alcohol licensed premises of the use of up to 2 gaming machines and issue licensed premises gaming machine permits where there are more than 2 machines
- issue permits to family entertainment centres for the use of certain lower stake gaming machines

- issue permits for prize gaming
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- register small society lotteries
- provide details of licences issued to the Gambling Commission
- maintain registers of the permits and licences that are issued under the Act.

## **1.5 Responsible Authorities**

Responsible authorities must be notified of all premises licence applications and are entitled to make representations if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- Gambling Commission
- Police
- Local Fire Authority
- Local Planning authority
- Environmental Health
- Child Protection Committee
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated.

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

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

This authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the responsible authorities under the Gambling Act 2005 are available on the Council's website.

## **1.6 Interested Parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Interested parties making representations will be required to relate their objection to one or more of the licensing objectives.

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.

In determining whether someone lives sufficiently close to particular premises so as to be affected the licensing authority will take into account, amongst other things:

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises.

In determining whether a person has a business interest which could be affected, the licensing authority will consider, amongst 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.

The term "business interests" is given the widest possible interpretation and includes partnerships, charities, faith groups and medical practices.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the licensing authority would not consider this as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The licensing authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision, the licensing authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically concerning the premises which is the subject of the application.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by officers. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

Where an interested party has made either a valid representation about a licensed premises or a valid application for a licence to be reviewed, the licensing authority may initially arrange a mediation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

## 1.7 Information Exchange

This licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that any data protection legislation will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 1.8 Enforcement

This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

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

This licensing authority has also adopted and implemented a risk-based inspection programme based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences.

As per the Gambling Commission's Guidance, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The licensing authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

The licensing authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants may be encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Bearing in mind the principle of transparency, the Licensing Authority's enforcement policy will be available upon request. Our risk methodology is also available upon request.

A number of gambling operators have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products or services. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.

## **1.9 Local Risk Assessments**

Operators with premises licences have an obligation to produce a local risk assessment which will assist the licensing authority when considering applications. The risk assessment should consider actual and potential risks to the licensing objectives posed by the provision of gambling facilities at a premises. The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area. The assessment should detail the policies, procedures and control measures to mitigate those risks and should take into account the licensing authority's Statement of Gambling Principles. The licensing authority can provide advice on the level of detail required, which will be proportional to the scale and nature of the application made.

The licensing authority will expect this risk assessment to accompany all applications for premises licences (new and variation), and will also expect the risk assessment to be shared with the licensing authority on request. Local risk assessments must be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or variation of a licence. The Council's Local Area Profile is available on request.

Risk assessments must be kept at the individual premises to which they relate. All staff should be fully aware of the risk assessment and where it is kept in order that they can work in accordance with any requirements, and it can easily be provided to responsible authorities should they request to see it at any reasonable time, including unannounced inspections and ad hoc visits.

We do not intend to specify a format or mandatory content for these local risk assessments, as we believe that these will be decisions for the operator to take, and will be dependent upon the location, size, and operational nature of the premises in question. However, we would expect that operators have considered the individual circumstances of each of their premises when compiling the risk assessments. A single generic risk assessment covering every premises in an operator's estate will not be considered by the authority to be suitable nor sufficient. We would also expect operators to take full account of our local area profile when compiling their risk assessments, and to reflect this in the control measures which they will implement.

## **2 Premises Licences**

### **2.1 General Principles**

A licence can only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are



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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

In the Act, "premises" is defined as including "any place". A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as shopping malls to obtain separate premises licences, where appropriate safeguards are in place. This licensing authority will take account of the Gambling Commission's guidance in respect of this matter and the mandatory conditions relating to access between premises.

When determining an application for a premises licence or review a premises licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome any concerns, this will be taken into account. This would be expected to be addressed as part of the local risk assessment required to be submitted with all new and variation premises licence applications.

In determining an application, the licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide, nor may it take account of any moral objections.

Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. More detail on licence conditions can be found at 2.5 of this document.

The licensing authority will not seek to use the Act to resolve matters more readily dealt with under other legislation, and will seek to avoid any duplication with other regulatory systems where possible. For example, the licensing authority will not take into account whether a premises has the appropriate planning or building consents, nor will it take into account fire or health and safety risks. It will, however, consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take such steps as are lawful and necessary to either limit access generally or by introducing measures to prevent under-age

gambling. The licensing authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm. Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

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

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling premises from being a source of crime, for example the sale and distribution of controlled drugs, money laundering, prostitution, or unlawful gambling. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary such as provisions of door supervisors. When making decisions in this regard, the licensing authority will give due weight to any comments made by the Police.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. The licensing authority will seek the views of its legal advisers before determining what action to take in circumstances in which disorder may be a factor. As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The licensing authority will not use the Act to deal with general nuisance issues, such as parking problems, which can easily be dealt with using alternative powers.

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

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

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

This licensing authority has noted that the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

The use of CCTV (in accordance with data protection regulations and any relevant codes of practice) is unlikely to be sufficient on its own as a measure to prevent access to gaming facilities by children or vulnerable persons (including those who have registered in a self-exclusion scheme). At premises such as adult gaming centres, betting shops, bingo

halls and family entertainment centres where category B or C gaming machines are operated, the licensing authority will expect that an appropriate number of staff will be present throughout opening hours who will ensure that children are not permitted to enter the premises or use age-restricted gaming facilities, as the case may be, and that self-excluded persons are not permitted to gamble.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons”, it is noted that the Gambling Commission does not seek to offer a definition, but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis and shall seek advice from the West Berkshire Health and Wellbeing Board and Safeguarding Adults Board where required.

## **2.5 Licence Conditions**

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

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

When considering any conditions to be attached to licences, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Conditions (other than default conditions and those required by law) will only be attached where they are needed to meet the requirements of the licensing objectives and are within the control of the licensee. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

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

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

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect. Where it is decided that supervision of entrances or machines is appropriate for particular cases, a consideration of whether these supervisors need to be SIA licensed will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

Listed below are examples of possible areas where a licensing authority may wish to attach conditions to a licence if deemed appropriate:

- Leaflets giving assistance to problem gambling being displayed in prominent areas and discreet areas such as toilets
- The operator having regard to best practice guidance issued on the protection of the interests of vulnerable people
- Positioning of GamCare helpline information positioned on the machine
- Posters promoting details of the GamCare telephone number and website
- A proof of age policy which would be agreed with a relevant responsible authority
- The inclusion of designated chill out areas and areas of non-gambling in the premises.

The licensing authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in

accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement or in a way that is reasonably consistent with the licensing objectives.

## **2.6 Licensed Family Entertainment Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Plans of the premises should be provided with an application for an FEC permit.

This licensing authority may consider measures to meet the licensing objectives such as:

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

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

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

In exercising their functions in respect of family entertainment centre permits, the licensing authority need not, but may have regard to, the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

Except in exceptional circumstances, the licensing authority will not grant FEC permits in premises licensed for the sale of alcohol under the Licensing Act 2003.

## **2.7 Casinos**

There are currently no casinos operating within the Borough.

The Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.8 Bingo Premises**

This licensing authority notes that the Gambling Commission's Guidance states: "Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas".

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **2.9 Betting Premises**

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

The authority notes the difference between betting terminals, which are designed to receive bets on real events, and gaming machines such as fixed odds betting terminals (FOBTs), which are reliant upon the outcome of a virtual event. It is further noted that betting premises are entitled to offer up to four gaming machines in total, which may include category B2 FOBT machines. No further limits may be imposed by the licensing authority on gaming machine numbers in betting (other) premises, beyond the standard prescribed limit applying to all betting (other) premises licences.

There are no statutory limits on the number of betting terminals that may be made available in betting premises, although the licensing authority may attach a condition to a licence limiting the number if concerns exist over the availability of machines to children or vulnerable persons which cannot be satisfied through alternative means.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

This licensing authority may consider measures to meet the licensing objectives such as:

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

- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/ helpline numbers for organisations such as GamCare

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

## **2.10 Adult Gaming Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

## **2.11 Tracks**

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the licensing objective "protection of children and vulnerable persons from being harmed or exploited by gambling" and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This licensing authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be taken.

*Gaming machines* - Guidance from the Gambling Commission is available as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

*Plans* - The Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take



place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

## **2.12 Travelling Fairs**

It will fall to this licensing authority to decide whether a travelling fair which offers category D machines and/or equal chance prize gaming without a permit meets the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair.

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

The 27-day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses boundaries is monitored so that the statutory limits are not exceeded.

## **2.13 Provisional Statements**

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

The Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered, or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage
- which in the authority's opinion reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **2.14 Licence Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice or Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the licensing authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months, and
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that 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.

### **3 Permits, Temporary and Occasional Use Notices**

#### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

A proprietor of a family entertainment centre premises (FEC), who wishes to make only category D gaming machines available for use in those premises, can do so in reliance upon a family entertainment centre gaming machine permit. This category of permit provides an alternative to the family entertainment centre premises licences available under the Act, which allow the operation of higher-value gaming machines but are subject to more rigorous application procedures.

It should be noted that the premises must be wholly or mainly used for making gaming machines available for use, to be eligible for this type of permit.

Any application for a permit will be considered with regard to the licensing objectives and to any relevant guidance issued by the Commission. Particular weight will be given to child protection issues.

The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant (or company directors if the applicant is a limited company) has no relevant convictions; and that staff are trained to have a full understanding of the maximum stakes and prizes.

Applicants will also be asked to supply a plan of the internal layout of the family entertainment centre, drawn to an appropriate scale, that shows the location of the area(s) where category D gaming machines will be made available for use.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

It is noted that a licensing authority cannot attach conditions to this type of permit.

#### **3.2 Alcohol Licensed Premises Notifications and Gaming Machine Permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice

issued by the Gambling Commission about the location and operation of the machine has been complied with)

- the premises is mainly used for gaming, or
- an offence under the Gambling Act has been committed on the premises

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

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

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### **3.3 Prize Gaming Permits**

In any application for a prize gaming permit the applicant should set out the types of gaming that he or she is intending to offer, and should also be able to demonstrate:

- they understand the limits to stakes and prizes that are set out in regulations
- that the gaming offered is within the law, and
- that appropriate measures will be taken to ensure that children are protected from being harmed or exploited by gambling; in particular, the measures that will be taken to ensure that children cannot participate in the gambling offered.

In making its decision on an application for this permit, the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance.

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

- limits on participation fees, as set out in regulations, must be complied with
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day, the game must be played and

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

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

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines, equal chance gaming and games of chance as set out in the regulations.

Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines as set out in the regulations.

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

Before granting the permit, the authority will need to satisfy itself that the premises meets the requirements of a members' club and may grant the permit if the majority of members are over 18.

Licensing authorities may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced."

The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12

- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of the code of practice about the location and operation of gaming machines.

### **3.5 Temporary Use Notices**

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues. The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The types of gambling activities that may be authorised by a Temporary Use Notice are set out in regulations made under the Act. Currently, the only permitted activity is the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Possible examples of this could include gaming tournaments with such games as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

Temporary Use Notices are subject to a statutory limit that a set of premises may be used for no more than 21 days in any 12 month period. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of "a set of premises", the licensing authority will look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities, or in other cases where the proposed gaming would undermine the licensing objectives or be contrary to the Guidance or this Statement of Principles.

### **3.6 Occasional Use Notices**

Occasional use notices may be used to authorise infrequent betting at track premises, on no more than 8 days in any calendar year. They cannot be used to authorise any other form of gambling activity (e.g. gaming machines). Providing that the 8-day limit is not breached, there is no provision for correctly-served notices to be refused by a licensing authority.

The licensing authority notes that the definition of track premises is not restricted to permanent premises, but can include any premises or land on which a race or sporting event is to take place. Consideration will therefore be given to the nature of the premises specified in a notice, in addition to whether the person giving the notice is an occupier of the track, or is responsible for the administration of events at the track.

It is further noted that occasional use notices do not relieve any person accepting bets at the track premises from the requirement to hold an appropriate betting operating licence, nor from the requirements of any conditions imposed upon that licence.

## **4 Decisions Making**

### **4.1 Delegations and process**

The Council will carry out its responsibilities under the Gambling Act 2005 efficiently and cost-effectively. To do this functions are delegated from the Licensing Committee to either Sub-Committees or officers as appropriate. The link shown at Appendix B identifies where the Council's Constitution and Scheme of Delegation is published. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or full Committee if considered appropriate in the circumstances of any particular case.

Where there are no areas of contention, it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by a sub-committee, as will any application for the review of a licence.

Every determination of a licensing decision by a Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable.

### **4.2 Appeals**

Where a licensing authority rejects an application, the applicant may appeal to the local Magistrates' Court.

## **5 Further information**

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from the Licensing Team as follows:

Licensing Team, West Berkshire District Council, Council Offices, Market Street, Newbury, RG14 5LD

Tel: 01635 519184

E-mail: [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk)

[www.westberks.gov.uk](http://www.westberks.gov.uk)

Information is also available from:

Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Tel: 0121 230 6500

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

### List of Consultees

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bingo Association
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Committee of Registered Club Associations
- Gamblers Anonymous
- Gambling Commission
- GAMCARE
- HM Revenue and Customs
- Holders of existing gambling licences / permits
- National Association of Bookmakers
- Parish and Town Councils
- Planning
- Public Consultation Portal
- Public Health Team
- Royal Berkshire Fire and Rescue
- Thames Valley Police
- West Berkshire Council Environmental Health
- West Berkshire Council Planning
- West Berkshire Safeguarding Children Board



**Summary of Delegations under the Gambling Act 2005**

<https://info.westberks.gov.uk/constitution>

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## Gambling Act Glossary

<b>Adult Gaming Centres</b>	Adult Gaming Centres must have a premises licence from the licensing authority to make category B, C and D gaming machines available to their customers.
<b>Betting Premises</b>	The Act contains a single class of licence for betting premises, which includes track and non-track.
<b>Bingo</b>	Two types of bingo can be offered: Cash bingo - where the stakes paid made up the cash prizes that are won; or Prize bingo - where various forms of prizes are won and are not directly related to the stakes paid.
<b>Casinos</b>	The Act defines casino games as games of chance which are not equal chance gaming.
<b>Customer Lottery</b>	A lottery run by occupiers of a business for the benefit of the customers who buy tickets sold on the premises (e.g. supermarket holding a hamper raffle).
<b>Exempt Lottery</b>	Incidental non-commercial lotteries Private lotteries Customer lotteries Small Society lotteries
<b>Gambling Act 2005</b>	The Act governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received royal assent on 7 April 2005.
<b>Gambling Commission</b>	The Gambling Commission licenses larger gambling operators and provides advice and guidance to operators, stakeholders and licensing authorities. They also have a role in enforcement and ensuring promotion of the licensing objectives.
<b>Gaming Machines</b>	Category of machine and where they can be situated are contained at the end of this glossary.
<b>Incidental Non-Commercial Lottery</b>	Lottery that is run as an additional amusement at non-commercial events with tickets sold only during the event, such as a raffle at a dance or church fair.
<b>Licensed Family Entertainment Centres</b>	The Act creates two classes of family entertainment centres (FEC). Licensed FECs provide category C and D machines and require a premises licence.

<b>Lotteries</b>	A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
<b>Non-track betting</b>	Betting that takes place other than at a race track.
<b>Occasional Use Notices</b>	Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
<b>Private Lottery</b>	Lottery that requires membership of a society, place of work or single residential unit (e.g. raffle at a student hall of residence).
<b>Small Society Lottery</b>	Non-commercial societies if it is established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.
<b>Temporary Use Notices</b>	These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises which might be suitable for temporary use notices would include hotels, conference centres and sporting venues.
<b>Track betting</b>	Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks both in the form of pool betting (often known as the "totalisator" or "tote") and also general betting, often known as "fixed-odds" betting.
<b>Travelling Fairs</b>	A travelling fair is one that "wholly or principally" provides amusements and they must be on a site that had been used for fairs for no more than 27 days per calendar year. No permit is required for gaming machines, but they must comply with age restrictions.
<b>Unlicensed Family Entertainment Centres</b>	Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.