

# **Gambling Act 2005 – Draft Statement of Principles**

## **Summary of Changes**

# Part A

## 1. The Licensing Objectives

This paragraph has been expanded to reflect that the licensing authority 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:

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

## 2. Introduction

There are no significant changes to this item.

## 3. Declaration

There are no significant changes to this item.

## 4. Responsible Authorities

There are no significant changes to this item.

## 5. Interested Parties

There are no significant changes to this item.

## 6. Exchange of Information

There are no significant changes to this item.

## 7. Enforcement

The draft statement of principles now includes details of the risk based inspection program.

*As per the Gambling Commission's draft Guidance to local authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.*

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

- *The licensing objectives*
- *Relevant codes of practice*
- *Guidance issued by the Gambling Commission, in particular at Part 36*
- *The principles set out in this statement of licensing policy*

There are no significant changes to this item.

## **8. Licensing authority functions**

There are no significant changes to this item.

# **Part B**

## **Premises Licences: Consideration of Applications**

### **1. General Principles**

There are no significant changes to this item.

#### **1a. Decision Making**

This is a new heading in the draft statement. There are however no significant changes to the item. The information appears at 1.2 in the original policy statement.

#### **1b. Definition of “premises”**

This is a new heading in the draft statement. This item now reflects the relevant information regarding multiple licences on a premises from the 3<sup>rd</sup> edition of the Gambling Commission’s Guidance to Local Authorities.

The Gambling Commission’s relevant access provisions for Casino’s, Adult Gaming Centres, Betting Shops, Tracks, Bingo Premises and Family Entertainment Centres are detailed in the draft policy. These access provisions were not included in the original policy statement.

***The Gambling Commission’s relevant access provisions for each premises type are reproduced below:***

7.25:

#### **Casinos**

- *The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)*

- *No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons*
- *No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence*

### **Adult Gaming Centre**

- *No customer must be able to access the premises directly from any other licensed gambling premises.*

### **Betting Shops**

- *Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence*
- *No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.*

### **Tracks**

- *No customer should be able to access the premises directly from:*
  - *a casino*
  - *an adult gaming centre*

### **Bingo Premises**

- *No customer must be able to access the premise directly from:*
  - *a casino*
  - *an adult gaming centre*
  - *a betting premises, other than a track*

### **Family Entertainment Centre**

- *No customer must be able to access the premises directly from:*
  - *a casino*
  - *an adult gaming centre*
  - *a betting premises, other than a track*

*Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.*

## **1c. Premises “ready for gambling”**

This is a new item in the draft statement. This item deals with premises which are not yet fully constructed, require altering or where the applicant does not yet have a right to occupy the premises.

*The Guidance states that a licence to use premises for gambling should 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.*

*Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.*

#### **1d. Location**

This is a new heading in the draft statement. There are however no significant changes to the item. The information appears at 1.5 in the original policy statement.

#### **1e. Planning**

This is a new heading in the draft statement. There are however no significant changes to the item. The information appears at 1.6 in the original policy statement. The Gambling Commission Guidance to Licensing Authorities states:

#### **1f. Duplication with other regulatory regimes**

This is a new heading in the draft statement. There are however no significant changes to the item. The information appears at 1.2 in the original policy statement.

#### **Licensing objectives**

This is a new heading in the draft statement. There are however no significant changes to the item. The information appears at 1.7 to 1.16 in the original policy statement. This item now reflects the guidance from the Gambling Commission's 3<sup>rd</sup> edition of the Guidance to Local Authorities.

## **2. Adult Gaming Centres**

There are no significant changes to this item, however, the draft statement now expands on the measures the licensing authority may consider to meet the licensing objectives.

*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.*

### **3. (Licensed) Family Entertainment Centres:**

There are no significant changes to this item, however, the draft statement now expands on the measures the licensing authority may consider to meet the licensing objectives. This item now reflects the guidance from the Gambling Commission's 3<sup>rd</sup> edition of the Guidance to Local Authorities.

*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.*

### **4. Casinos**

There are no significant changes to this item. The draft statement has omitted the items which appear at 4.2 to 4.4 in the original draft policy.

### **5. Bingo premises**

This item now reflects the guidance from the Gambling Commission's 3<sup>rd</sup> edition of the Guidance to Local Authorities.

*This licensing authority notes that the Gambling Commission's Guidance states:*

- 18.4 *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 at paragraph 18.8 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.*

18. *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.*

## **6. Betting premises**

There are no significant changes to this item.

## **7. Tracks**

There are no significant changes to this item, however, the draft statement has expanded on the measures which the authority may consider to meet the licensing objectives.

*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.*

## **Applications and plans**

This is a new item in the draft statement.

*The Gambling Act (s51) 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. (See Guidance to Licensing Authorities, para 20.28).*

*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. (See Guidance to Licensing Authorities, para 20.29).*

*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 (See Guidance to Licensing Authorities, para 20.31).*

*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. (See Guidance to Licensing Authorities, para 20.32).*

*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. (See Guidance to Licensing Authorities, para 20.33).*

## **8. Travelling Fairs**

There are no significant changes to this item.

## **9. Provisional Statements**

There are no significant changes to this item, however, it has been expanded upon to reflect the circumstances under which a provisional statement may be applied for and the manner in which it should be made and then duly considered by the authority.

*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.*

*S204 of the Gambling 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 premises 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.*

## **10.Reviews:**

There are no significant changes to this item, however, it does now reflect the statutory timings for the hearing and details the actions which the authority can take. This item also details the parties which must be notified of the review decision.

*Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.*

*The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.*

*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 or Scottish Ministers (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.*

*Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:*

- *the licence holder*
- *the applicant for review (if any)*
- *the Commission*
- *any person who made representations*
- *the chief officer of police or chief constable; and*
- *Her Majesty's Commissioners for Revenue and Customs*

## PART C

### Permits / Temporary & Occasional Use Notice

#### 1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

This item has been expanded to reflect the matters which the licensing authority will expect applicants to demonstrate.

*Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:*

- *a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;*
- *that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and*
- *that staff are trained to have a full understanding of the maximum stakes and prizes.*  
(24.7)

*It should be noted that a licensing authority cannot attach conditions to this type of permit.*

**Statement of Principles** *This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected 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 has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.*

## **2. (Alcohol) Licensed premises gaming machine permits (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There are no significant changes to this item. This matter appears at 2.1 in the original policy statement.

### **Permit: 3 or more machines**

There are no significant changes to this item. This matter appears at 2.2 to 2.5 in the original policy statement.

## **3. Prize Gaming Permits**

The draft statement now reflects the authority's statement of principles which the applicant should set out in their application for this permit.

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

- *that they understand the limits to stakes and prizes that are set out in Regulations;*
- *that the gaming offered is within the law*
- *Clear policies that outline the steps to be taken to protect children from harm.*

There are no other significant changes to this item.

## **4. Club Gaming and Club Machines Permits**

There are no significant changes to this item. This matter now reflects the 3<sup>rd</sup> edition of the Gambling Commission's Guidance to Local Authorities.

## **5. Temporary Use Notices**

This matter has been expanded upon to reflect current guidance and regulations.

*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 Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance*

*gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.*

*There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. 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 the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to 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.*

## **6. Occasional Use Notices:**

There is no change to this item.

## Appendix B

### Summary of licensing authority delegations permitted

There is no change to this table.

Matter to be dealt with	Full Council	Licensing Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations are received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been received and not withdrawn	Where no objections received / objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	