Open

Licensing Sub Committee

Agenda

2pm
Thursday, 12th November 2020
To be held remotley

Licensing Sub Committee

Members of Committee:

Chairman: Councillor P Dyke **Councillor B Dawes**
Councillor C Edginton-White

Information for Members of the Public:

If you have any questions regarding the agenda or the attached papers please do not hesitate to contact the officer named below.

The meeting is open to the public except for any exempt/confidential items. These items are normally discussed at the end of the meeting. Where a meeting is held remotely, "open" means available for live or subsequent viewing.

Members of the public will be able to hear and see the meetings by a live stream on the Council's website: https://www.wyreforestdc.gov.uk/streaming.aspx

This meeting is being held remotely online and will be recorded for play back. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. All streamed footage is the copyright of Wyre Forest District Council.

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of this constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Sian Burford, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732766 or email sian.burford@wyreforestdc.gov.uk

Wyre Forest District Council

Licensing Sub Committee

Thursday, 12th November 2020

To be held remotley

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	**Apologies for Absence**	
2.	**Appointment of Substitute Members** To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	**Declarations of Interests by Members** In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	**Application for the Grant of a Premises Licence** To receive a report from the Head of Worcestershire Regulatory Services which asks the Committee to consider and determine an application for the grant of a premises licence in respect of 1 High Street, Kidderminster, Worcestershire, DY10 2DJ	5

WYRE FOREST DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

12 NOVEMBER 2020

GAMBLING ACT 2005

APPLICATION FOR THE GRANT OF PREMISES LICENCE

PUBLIC HEARING	
Director:	**Head of Worcestershire Regulatory Services**
Contact Officer:	**Graham Rowberry** **Technical Officer (Licensing)** **01905 822799** **enquiries@worcsregservices.gov.uk**
Ward(s) affected:	**Blakebrook and Habberley South**
Appendices:	**Appendix 1** Licence application and cover letter **Appendix 2** Plans of premises **Appendix 3** Confirmation of operating licence **Appendix 4** Local Area Risk Assessment **Appendix 5** Operational Standards **Appendix 6** Working Together document **Appendix 7** Certificate of service **Appendix 8** Additional conditions agreed with Police **Appendix 9** Representations **Appendix 10** Statement of Principles 2019-2022 **Appendix 11** Licence conditions and codes of practice **Appendix 12** Guidance to licensing authorities **Appendix 13** Mandatory conditions attaching to bingo premises licences
Applicant	**Cashino Gaming Limited** **Seebeck Place** **Knowlhill** **Milton Keynes** **MK5 8FR**

1. PURPOSE OF REPORT

1.1. The purpose of this report is to provide the Committee with information required to consider and determine an application for the grant of a bingo premises licence as provided for by the Gambling Act 2005 in respect of –

1 High Street
Kidderminster
Worcestershire
DY10 2DJ

2. BACKGROUND

2.1. A bingo premises license is required to authorise premises to be used for the provision of facilities for the playing of bingo.

2.2. On 25 August 2020 an application was received from Poppleston Allen solicitors acting as agent for the applicant:

Cashino Gaming Limited
Seebeck Place
Knowlhill
Milton Keynes
MK5 8FR

for the grant of a bingo premises licence in respect of –

1 High Street
Kidderminster
Worcestershire
DY10 2DJ

A copy of the application form and its covering letter is attached as **Appendix 1**. A plan of the premises was included with the application and is attached as **Appendix 2**. The required fee was included with the application.

2.3. Cashino Gaming Limited hold the required operating licence issued by the Gambling Commission entitling them to provide bingo games from a premises open to the public. This was confirmed online at the Gambling Commission website and the details are attached as **Appendix 3**.

2.4. A number of additional documents were submitted in support of the application and are attached as appendices. These are:

Local Area Risk Assessment (**Appendix 4**)

The applicant's Operational Standards (**Appendix 5**)

The applicant's 'Working Together' document (**Appendix 6**)

2.5. The agent for the applicant has confirmed that notice of the application was served on the Responsible Authorities, and advertised at the premises and in the local press as required by the Gambling Act 2005. A Certificate of Service on the Responsible Authorities was provided by the applicant, which is attached as **Appendix 7**.

2.6. All the required elements were included with the application and it was advertised as required by the Gambling Act 2005.

2.7. West Mercia Police subsequently confirmed by email to Worcestershire Regulatory Services on 13 September 2020 that certain conditions proposed by the applicant after discussion with them had been agreed for attachment to the licence should it be issued. This email is attached as **Appendix 8**.

3. REPRESENTATIONS

RESPONSIBLE AUTHORITIES

3.1. No representations were received from any of the responsible authorities identified in the Gambling Act 2005 and associated regulations.

INTERESTED PARTIES

3.2. A total of four representations were received from members of the public. These are attached as **Appendix 9**.

3.3. Copies of the representations, with names and addresses redacted, were provided to the applicant's agent at their request.

4. LOCAL POLICY CONSIDERATIONS

4.1. The Sub-Committee should have regard to the Council's Statement of Principles published in accordance with s 349 of the Gambling Act 2005.

4.2. A copy of the Council's Statement of Principles with effect from 31 January 2019 is attached as **Appendix 10**.

4.3. In the light of the content of the representations made, paragraph 7 of the Statement of Principles is of particular relevance.

5. LEGAL IMPLICATIONS

5.1. Section 153 of the Gambling Act 2005 sets out the principles to be applied by licensing authorities when determining whether to permit the use of premises for gambling:

153 Principles to be applied

(1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

(a) in accordance with any relevant code of practice under section 24,

(b) in accordance with any relevant guidance issued by the Commission under section 25,

(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and

(d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

(2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

(3) This section is subject to section 166.

5.2. With reference to s 153(1)(a), a copy of the Gambling Commission's Licence conditions and codes of practice is attached as **Appendix 11**.

5.3. With reference to s 153(1)(b), the latest version of the Gambling Commission's Guidance to licensing authorities is attached as **Appendix 12**.

5.4. With reference to s 153(1)(c), s 1 of the act defines the three licensing objectives. These are:

(a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,

(b) ensuring that gambling is conducted in a fair and open way, and

(c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.5. The Council's Statement of Principles, published in accordance with s 349 of the act and referred to in s 153(d), has already been referred to in paragraph 4.

5.6. Section 166 of the Act, referenced by s 153(6), allows a licensing authority to resolve not to issue casino premises licences. As such, s 166 is not relevant to this application.

5.7. On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall –

(a) Grant it, or

(b) Reject it.

5.8. Mandatory conditions as prescribed under s 167 of the act must be attached to a bingo premises licence when it is granted. A copy of the mandatory conditions is attached as **Appendix 13**.

5.9. Section 169 of the act allows a licensing authority granting a bingo premises licence to –

(a) attach a condition to the licence

(b) exclude default conditions that would otherwise be applied by virtue of s 168 of the act

Conditions attached to a bingo premises licence by the licensing authority under s 169 may address matters dealt with by excluded default conditions, and may apply to the premises generally or only in relation to a specified part of the premises.

A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence authorising the holder to carry out the activity in respect of which the premises licence is granted.

5.10. Where a licensing authority grants or rejects an application for a premises licence, notice of the decision must be given as soon as is reasonably practicable to–

- The applicant
- The Gambling Commission
- Any person who made representations about the application
- The Chief Officer of Police for the area

- Her Majesty's Commissioners of Customs and Excise

5.11. If the application is granted, the notice –

(a) must be in the prescribed form,

(b) if the licensing authority have attached a condition to the licence under s 169(1)(a) or excluded under s 169(1)(b) a condition that would otherwise have attached by virtue of s 168, must give the authority's reasons, and

(c) if representations were made about the application under s 161, must give the authority's response to the representations.

5.12. If the application is rejected, the notice –

(a) must be in the prescribed form, and

(b) must give the authority's reasons for rejecting the application.

5.13. Where a licensing authority rejects an application for a premises licence, the applicant may appeal.

5.14. Where a licensing authority grant an application for a premises licence, either of the following may appeal –

(a) a person who made representations in relation to the application

(b) the applicant

5.15. Appeals must be instituted in the Magistrates Court for the area within 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.

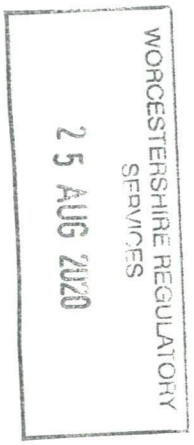
6. FOR DECISION

6.1. The Sub-Committee must consider and determine the application.

PoppletonAllen

Licensing Section
Wyre Forest District Council
Duke House
Clensmore Street
Kidderminster
Worcestershire
DY10 2JX

SPECIAL DELIVERY



Date: 24 August 2020

Our ref: HWO/HWO/P56288-654
Doc Ref: 2147614720

Your ref:

E-mail: h.worthington@popall.co.uk

Direct line: 0115 9349 190

Dear Sirs

Merkur Slots, Part Ground Floor, 1 High Street, Kidderminster, DY10 2DJ
Bingo Premises Licence

We act for Cashino Gaming Limited and are instructed to submit an application for a Bingo Premises Licence for the above premises.

We therefore enclose:-

1. Application form
2. Notice of Application
3. Licensing plan **HS/KID/02**
4. Layout plan for illustrative purposes only
5. Local Area Risk Assessment
6. Copy of Cashino Gaming Limited's Operational Standards
7. Copy of Cashino Gaming Limited's 'Working Together' Documentation
8. Cheque in the sum of £3,085
9. Certificate of Service in the name of Hannah Worthington

We have arranged for the notice to be displayed on the premises from **25 August 2020** and published within an appropriate local newspaper within 10 working days of **25 August 2020**.

This application has been sent to you by special delivery to arrive at your offices by **25 August 2020** and the last date for representations will therefore be **21 September 2020**.

Paragraph 15(2) of the Gambling Act 2005 (Premises Licence and Provisional Statements) Regulations 2007 state that the period for representations shall begin on the date on which you receive the application.

We confirm we have served notice of the application to the Responsible Authorities as specified in Section 157 of the Gambling Act 2005.

If you have any queries or require anything further in support of the application, please contact Hannah Worthington on the above number so we can discuss it with you.

We should be grateful if you would acknowledge safe receipt of this letter and the relevant enclosures.

Yours faithfully

Poppleston Allen

Encs

WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

Application for a premises licence under the Gambling Act 2005 (standard form)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Where the application is—

- In respect of a vessel, or
- To convert an authorisation granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968,

the application should be made on the relevant form for that type of premises or application.

Part 1 – Type of premises licence applied for

Regional Casino ☐ Large Casino ☐ Small Casino ☐

Bingo ☑ Adult Gaming Centre ☐ Family Entertainment Centre ☐

Betting (Track) ☐ Betting (Other) ☐

Do you hold a provisional statement in respect of the premises? Yes ☐ No ☑

If the answer is "yes", please give the unique reference number for the provisional statement (as set out at the top of the first page of the statement):

Part 2 – Applicant Details

If you are an individual, please fill in Section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B.

Section A

Individual applicant

1. Title: Mr ☐ Mrs ☐Miss ☐Ms ☐Dr ☐ Other (please specify)

2. Surname: Other name(s):

[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]

3. Applicant's address (home or business – *[delete as appropriate]*):

Postcode:

4(a) The number of the applicant's operating licence (as set out in the operating licence):

4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

5. Tick the box if the application is being made by more than one person. ☐

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Section B
Application on behalf of an organisation

6. Name of applicant business or organisation: **Cashino Gaming Limited**

7. The applicant's registered or principal address:

Seebeck House
1A Seebeck Place
Knowlhill
Milton Keynes
Postcode: **MK5 8FR**

8(a) The number of the applicant's operating licence (as given in the operating licence):
000-003266-N-103444

8(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

9. Tick the box if the application is being made by more than one organisation. ☐

[Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Part 3 – Premises Details

10. Proposed trading name to be used at the premises (if known): **Merkur Slots**

11. Address of the premises (or, if none, give a description of the premises and their location):

Part Ground Floor, 1 High Street
Kidderminster
Postcode: **DY10 2DJ**

12. Telephone number at premises (if known): **N/A**

13. If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located.

Ground floor, high street location.

14(a) Are the premises situated in more than one licensing authority area? **No**

14(b). If the answer to question 14(a) is yes, please give the names of all the licensing authorities within whose area the premises are partly located, **other than the licensing authority to which this application is made:**

N/A

Part 4 – Times of operation

15(a). Do you want the licensing authority to exclude a default condition so that the premises may be used for longer periods than would otherwise be the case? **No**

15(b). If the answer to question 15(a) is yes, please complete the table below to indicate the times when you want the premises to be available for use under the premises licence. **N/A**

	Start	*Finish*	*Details of any seasonal variation*
Mon			
Tue			
Wed			
Thurs			
Fri			
Sat			
Sun			

16. If you wish to apply for a premises licence with a condition restricting gambling to specific periods in a year, please state the periods below using calendar dates: **N/A**

Part 5 – Miscellaneous

17. Proposed commencement date for licence (leave blank if you want the licence to commence as soon as it is issued):

18(a). Does the application relate to premises which are part of a track or other sporting venue which already has a premises licence? **No**

18(b). If the answer to question 18(a) is yes, please confirm by ticking the box that an application to vary the main track premises licence has been submitted with this application. ☐

19(a). Do you hold any other premises licences that have been issued by this licensing authority?
No

19(b). If the answer to question 19(a) is yes, please provide full details:

20. Please set out any other matters which you consider to be relevant to your application:

The Applicant operates a national estate of licensed bingo premises which include the provision of bingo tablets and Bingo Plus and Bingo Express terminals. Substantive facilities for non-remote bingo will be made available in accordance with legislative provisions.

The operator has full authority to provide licensed bingo by the provision of an Operating Licence granted by the Gambling Commission. The UK's Gambling Regulator has therefore approved the measures implemented to ensure that effective anti-money laundering procedures are implemented and policies have been developed to ensure responsible trading in accordance with the gambling legislation, the licensing objectives and the licence conditions and code of practice.

A copy of Cashino Gaming Limited's Operational Standards has been provided in support of the application and full copies of the Applicant's policies and procedures are available, if required.

A copy of Cashino Gaming Limited's 'Working Together' document has also been supplied in support of the application, which provides an overview of the licensee's proposed operation.

Part 6 – Declarations and Checklist (Please tick)

We confirm that, to the best of our knowledge, the information contained in this application is true. We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application. ☑

We confirm that the applicant(s) have the right to occupy the premises. ☑

Checklist:

- Payment of the appropriate fee has been made/is enclosed ☑
- A plan of the premises is enclosed ☑
- We understand that if the above requirements are not complied with the application may be rejected ☑
- We understand that it is now necessary to advertise the application and give the appropriate notice to the responsible authorities ☑

Part 7 – Signatures

21. Signature of applicant or applicant's solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:	Poppleston Allen		
Date:	24 August 2020	Capacity:	Solicitors for & on behalf of the applicant

22. For joint applications, signature of 2nd applicant, or 2nd applicant's solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:			
Date:		Capacity:	

[Where there are more than two applicants, please use an additional sheet clearly marked "Signature(s) of further applicant(s)". The sheet should include all the information requested in paragraphs 21 and 22.]

[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

Part 8 – Contact Details

23(a) Please give the name of a person who can be contacted about the application:

Hannah Worthington

23(b) Please give one or more telephone numbers at which the person identified in question 23(a) can be contacted:

0115 9349 190

24. Postal address for correspondence associated with this application:

Hannah Worthington
Poppleston Allen
37 Stoney Street
The Lace Market
Nottingham
Postcode: **NG1 1LS**

25. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

h.worthington@popall.co.uk

NOTICE OF APPLICATION FOR A PREMISES LICENCE

This notice is issued in accordance with regulations made under section 160 of the Gambling Act 2005

Notice is hereby given that **Cashino Gaming Limited**

of the following address –

WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

Seebeck House
1A Seebeck Place
Knowlhill
Milton Keynes
Postcode **MK5 8FR**

the number of whose operating licence is **000-003266-N-103444**

who applied for an operating licence on **N/A**

has made an application for a **Bingo Premises Licence**

The application relates to the following premises

Merkur Slots
Part Ground Floor, 1 High Street
Kidderminster
DY10 2DJ

The application for a premises licence has been made to the following licensing authority:

Wyre Forest District Council
Licensing Section
County Hall
WR5 2NP
Website: **www.wyreforestdc.gov.uk**

Information about the application is available from the licensing authority, including the arrangements for viewing the details of the application.

The following person connected with the applicant is able to give further information about the application:

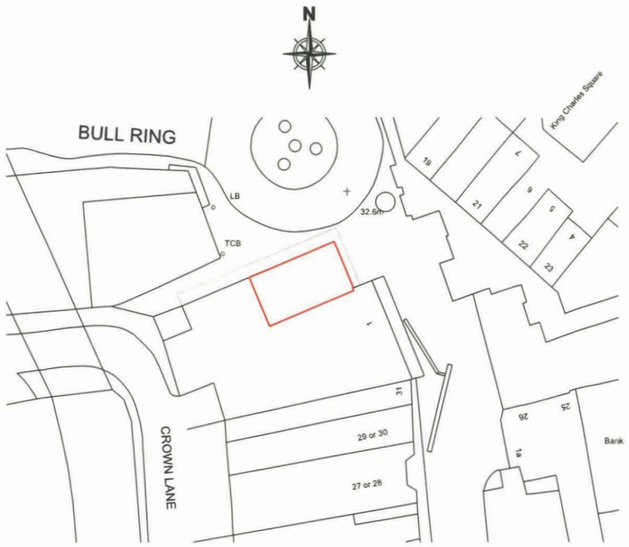
Hannah Worthington
0115 9349 190
Poppleston Allen
37 Stoney Street
The Lace Market
Nottingham
NG1 1LS

Any representations under section 161 of the Gambling Act 2005 must be made no later than the following date: 21 September 2020

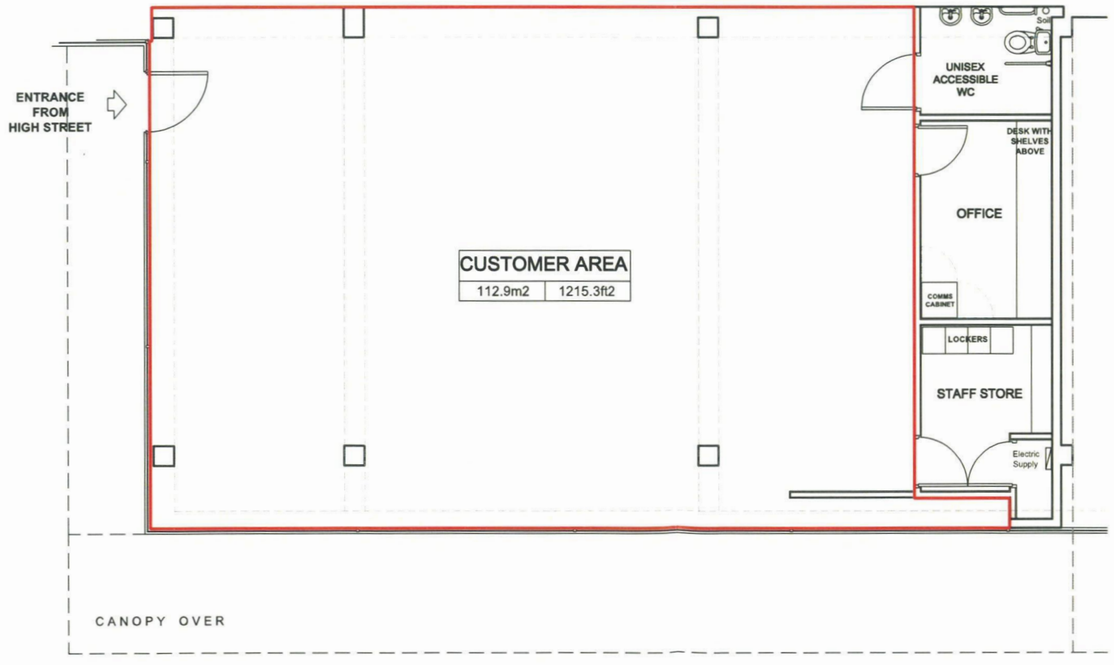
GAMBLING ACT 2005 LICENSING PLAN

Anything shown on this plan which is not required by the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 is for information purposes only and **does not** form part of the premises licence.

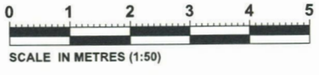
——— Area in which facilities will be provided for gaming.



Site Location Plan **1:500**



Proposed Floor Plan **1:50**



WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

Rev	Date	Description

MERKUR SLOTS

Address
Part Ground Floor
1 High Street
Kidderminster DY10 2DJ

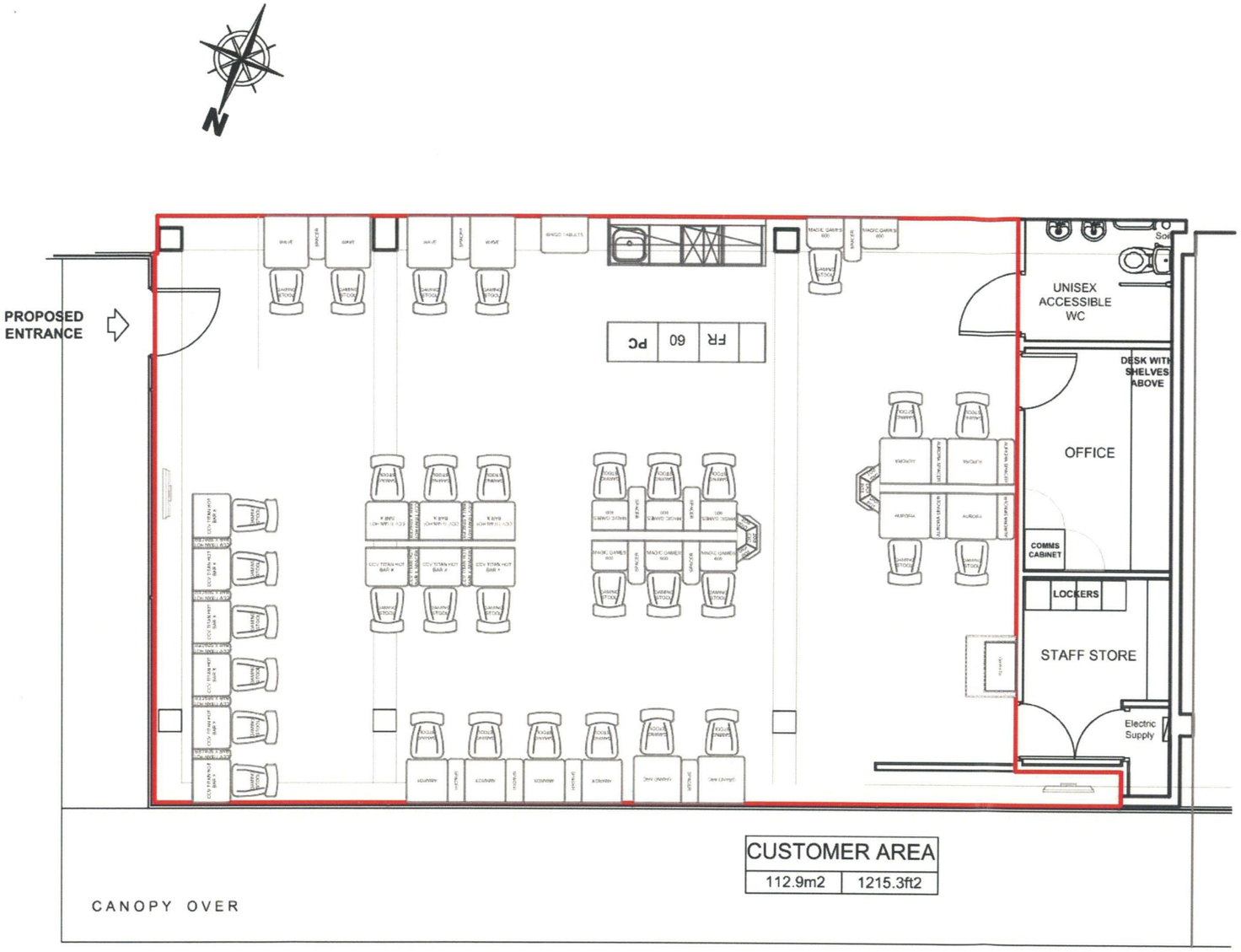
Title
LICENCE PLAN

Drawn	Date	Scale
JAM	12/08/2020	1:50 @ A1
Customer Area	112.9m2	
Drawing Number HS/KID/02		Revision

McKeowns
Plans for Construction
393 Alvechurch Road, Birmingham, B31 4UB Tel: 0121 433 4749

Licence Plan

WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020



GAMBLING ACT 2005 LICENSING PLAN

Anything shown on this plan which is not required by the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 is for information purposes only and **does not** form part of the premises licence.

—— Area in which facilities will be provided for gaming.

FOR ILLUSTRATION PURPOSES ONLY

Proposed Floor Plan 1:75

0 1 2 3 4 5
SCALE IN METRES (1:75)

REVISIONS	FIT OUT TYPE: Merkur Slots PROJECT: Merkur Slots Part Ground Floor of 1 High Street Kidderminster DY10 2DJ DESCRIPTION: PROPOSED MACHINE PLAN	REFERENCE DRAWINGS SCALE: 1:75 DRAWN BY: LC DATE: 15/08/2020 DRAWING No. / REVISION	MERKUR SLOTS

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Account details

Find licensees +

We want your feedback about this service

Please complete **this short survey** (https://forms.office.com/Pages/ResponsePage.aspx?id=kv_dfeYdNUiZY4TnzETOopJIJeVIU-pCq1XXQKXvd4RUNktHU0swQTVRV1pNVkFCUUZaNzdCMjFDVS4u) (link opens in a new window) and give us your feedback.

Reference
3266

Licensee name
Cashino Gaming Limited

Principal address
Cashino Gaming Limited
Seebeck Place, Knowlhill
MILTON KEYNES
MK5 8FR

Licensed activities
Active **help**
Non remote
Bingo **help**
Gaming machine general: adult gaming centre **help**
Gaming machine general: family entertainment centre **help**
General betting standard **help**
Linked gaming machine technical - supplier **help**

Ancillary

Bingo **help**
General betting (standard) **help**

Surrendered **help**
Remote
Betting intermediary (trading rooms only) **help**

Sanctions
No sanctions recorded

Other action
No other actions recorded

Domain names
These names are provided by the licensee
No domain names recorded

Trading names
These names are provided by the licensee

Active **help**
Cashino Gaming
The Crystal Casino
Golden Gate
Sunspot
Funshine
Showboat
Thomas's No 1
The Ticket Palace
Cashino
Merkur Cashino
Merkur Slots

Back (/PublicRegister/Search?Search=cashino)

Search help

If your search does not return results try using just a single word to search (for example instead of 'Acorn and Horsetree Betting' just search for 'Acorn').

Avoid words that could apply to lots of operators. For example limited, bookmakers, London or casino.

Searching with a licence number

If you have a licence number from an operator and want to locate the public register record you will need to do the following.

A licence number is usually in the following format 000-012345-N-987654-001. You need to search for the numbers in the first block of 6 digits, removing any leading zeros where they exist. So in this example search for the reference **12345**

Also see:

How to complain to a gambling business **(https://www.gamblingcommission.gov.uk/for-the-public/Your-rights/Concern-about-a-gambling-business.aspx)**

Key facts about the gambling industry **(https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Gambling-key-facts.aspx)**

Regulatory action **(https://www.gamblingcommission.gov.uk/news-action-and-statistics/Regulatory-action/Regulatory-action.aspx)**

WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

Merkur Slots, 1 High Street, Kidderminster, DY10 2DJ

Local Area Risk Assessment

Trading Name:	Merkur Slots
Premise Address:	1 High Street, Kidderminster, DY10 2DJ
Local Authority:	Wyre Forest District Council
Premise Licence No:	New application
Operator Licence No:	000-003266-N-103444-024 (Cashino Gaming Ltd)
Company Details:	Praesepe Group, 1a Seebeck House, Seebeck Place, Knowlhill, Milton Keynes MK5 8FR Premise Licence Holder: Cashino Gaming Limited
Name and Title of Assessor:	Gill Clulow – Senior Auditor
Date of Assessment:	11.08.2020
Review Date:	On opening in conjunction with local staff

Local Area Profile Risk Factors

Local Risk Profile:	Merkur Slots Kidderminster is located on the edge of the pedestrianised shopping centre and is a corner unit with its return onto Vicar Street. Wetherspoons – The penny Black is opposite as is H&T pawnbrokers. Kidderminster Collage is located within the town centre with students Frequenting the town during breaks and after collage. It is on the walk through to the Weavers Wharf Retail Park. When contacted the local Authority had no concerns over the location. William Hill previously located opposite at 10/12 Bull Ring is now closed. Merkur Slots has noted the conclusions of the Wyre Forest Local Area Profile which highlights the wards of Blakebrook and Habberley in Kidderminster, both of which are 1.5 - 2 miles outside of the town centre.
Establishments of note:	Kidderminster Collage, Market St, DY10 1LX, Kidderminster Job Centre and Library, Market St, DY10 1AB, Rees Community Café, Exchange St, DY10 1BT.
Adjoining premises:	Merkur Slots Kidderminster is a corner unit located next to British Heart Foundation Home and Furniture Shop, opposite is Greggs, H&T pawnbrokers.
Crime statistics:	High Street, Kidderminster, DY10 2DJ is within the Greenhill policing neighbourhood, under the West Mercia Police force area. In the year ending June 2019, the crime rate in Kidderminster area was lower than the average crime rate across similar areas including Thanet, Tameside or Mansfield. No crimes were reported on High Street, Kidderminster in June 2020 but 215 crime incidents took place within half a mile of the centre of DY10 2DJ predominantly consisting of Anti-social behavior (101), Violence and sexual offences (48) and Shoplifting (22). There are current policing priorities for this area.
Population:	Kidderminster area has a population on 2269 people, most in the age groups 30-44 and 75-84. Households are predominantly singe persons and there is a high number widowed residents (17%). In the immediate vicinity of DY10 2DJ the number of residents with health problems is higher than average, which indicates area with an older population. High Street and surrounding area has a larger than average concentration of residents without any qualifications - 45%, compared to 22.9% UK average (Census 2011).
Culture:	Ethnical diversity of Kidderminster area is the same as national average. As whole, the UK population claims itself as approximately 86% white, with this area being 89% white. The other sizable ethnic groups are: Bangladeshi (5.5%), Mixed Ethnicity (2.7%), Chinese (1.6%) and Black Caribbean (1.2%). There is a small number of migrants from European countries. Dominating religion is Christianity – 59% which the same as UK average. 35% of local population claim to have no religion or did not state their religious views and 6% is Muslim.
Unemployment:	Merkur Slots Kidderminster is in an area with an employment rate of 57.4%, which is significantly lower than UK average of 76%. Unemployment rate is slightly higher than national average, currently at 9.5%. 15.4% of local residents are retired and 10% are disabled or on long-term sick. 70% of employees are classified as skilled, semi-skilled and unskilled manual workers; those on state benefit, unemployed and lowest grade workers. Dominating employment industries are retail (21%), manufacturing (19%), accommodation and food (11%).
Deprivation:	In 2019, Index of Multiple Depravation for High Street, Kidderminster was ranked 5,016 out of 32,844 where 1 is the most deprived. This is amongst 20% of most deprived neighbourhoods in the country. The biggest concern in this area is caused by crime depravation (within 10% most deprived places in UK), health and disability and income depravation affecting older people. Other depravation indices including income,

	employment, education, barriers to housing and other services are all classified within 30% most deprived areas in UK. This shows living environment of local population is not very high.
Local Police:	Local police contacted and response awaited.

The Gambling Act 2005 sets out the three licensing objectives (LO), which 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 people from being harmed or exploited by gambling.

Localised Risks to the Licensing Objectives

This Local Area Risk assessment takes into account Wyre Forest District Council local authority Statement of Gambling Principles, reference 7.10 Bingo Centres and Worcestershire Gambling Local Area Profile which identified the areas of Blakebrook and Habberly South, both outside the town centre as beings wards of note.

Environmental Factors

In preparing this assessment Praesepe has considered the relevance of environmental factors. In this context, environmental factors include the physical location of schools, playgrounds, residential areas, other retail premises and locations (bus stations, tube stations) which have an effect on footfall. We have set out below our position on risk in this area:

Licensing Objectives	Local Risks	Control Measures
Protecting children and other vulnerable people from being harmed or exploited by gambling	**Unemployment** Merkur Slots Kidderminster is in an area with an employment rate of 57.4%, which is significantly lower than UK average of 76%. Unemployment rate is slightly higher than national average, currently at 9.5%. 15.4% of local residents are retired and 10% are disabled or on long-term sick. 70% of employees are classified as skilled, semi-skilled and unskilled manual workers; those on state benefit, unemployed and lowest grade workers. Dominating employment industries are retail (21%), manufacturing (19%) and accommodation and food (11%). **Deprivation** In 2019, Index of Multiple Depravation for High Street, Kidderminster was ranked 5,016 out of 32,844 where 1 is the most deprived. This is amongst 20% of most deprived neighbourhoods in the country. The biggest concern in this area is caused by crime depravation (within 10% most deprived places in UK), health and disability and income depravation affecting older people. Other depravation indices including income, employment, education, barriers to housing and other services	**Age Verification** *Ensuring Under 18's do not have access to licensed premises* All Merkur Slots venues are strictly adult only (over 18's only). Gambling is an age restricted product and Praesepe operates a 'Think 25' policy. Age verification is embedded in training platforms and responsible gambling policies. Over 18's notices are displayed on the entrance. Think 25 advertising is prominently displayed throughout the premise. Merkur Slots Premise frontage will be of a style which obscures the interior with no advertising depicting images that may appeal to children. Marketing and Promotional activity complies with LCCP and standards set by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP).

	are all classified within 30% most deprived areas in UK. This shows living environment of local population is not very high. **Schools and Education** Kidderminster Collage, Market St, DY10 1LX Holy Trinity School, Birmingham Rd, DY10 2BY King Charles I School and Sixth Form Centre, Comberton Rd, DY10 1XA St Ambrose's Catholic Primary School, Leswell St, DY10 1RP Stourport Primary School, 31 Birmingham Rd, DY10 2DA St Georges CE Primary School & Nursery, Birmingham Road, DY10 2BX Teach Me Music Academy, 23 Worcester St, DY10 1ED St. Mary's CofE Primary School, Stoney Ln, DY10 2LX Autism, ASC, ADHD, ADD & Child & Adult Assessment Centre, 11 Church St, DY10 2AH Little Trinity, Birmingham Rd, Worcestershire, DY10 2BY Wyre Forest School, 4 Habberley Rd, DY11 6FA St John's C of E Primary School, Blakebrook, DY11 6AP The Kiddies Day Nursery, 132 Chester Rd S, DY10 1XE **Community Centres and Youth Centres** St. George's Church Annexe, Radford Ave, DY10 2ES Sons of Rest Pavilion, Brinton Park, Sutton Rd, DY11 6QP Kidderminster & District Youth Trust, Bromsgrove St, DY10 1PF 156 Squadron ATC, The Shrubbery, Birmingham Rd, DY10 2BY **Parks, play grounds and sports/leisure facilities** St. George's Park, Radford Ave, DY10 2ES Brinton Park, 111 Sutton Rd, DY11 6QU Springfield Park, Kidderminster DY10 2PY **Vulnerable and addiction support services** Gambling Support Group, 19 Streatford Road, Bromsgrove, B60 1AS Wyre Forest Citizens Advice, 21-23 New Road, DY10 **Homeless shelters and food banks** Kidderminster Food Bank, Bull Ring, DY10 2AA **Pawnbrokers and Loan Shops** H&T Pawnbrokers, 20 Bull Ring, DY10 2AZ ReGenerate, 4, 58-59 Worcester St, DY10 1EL CEX, 82 Worcester St, DY10 1EH	Merkur Slots operate a comprehensive Think 25 Policy, age verification checks are carried out and recorded, any person unable or unwilling to verify their age with appropriate ID will be told to leave, if they have managed to play machines, their staked money will be returned to them. Age verification test purchasing and mystery shopper visits are frequently carried out by 3rd party companies - Check Policy and Store Checker. Age verification tests for 2019/2020 resulted in a pass rate of 96.09% which is 20% higher than the Industry average, all venues receive 3 or 4 random test visits per year. Test purchase fails are reviewed within 48 hours by the Area Manager, this involves reviewing CCTV footage of the incident and implementing appropriate training or where necessary disciplinary action. All age verification checks are recorded on the IHL SMART Tablet AV App, this data is collated centrally and regularly reviewed by an independent team of compliance auditors. Results of age verification checks and third party results are shared with the Gambling Commission. Proof of Age scheme in place with application forms available in the venue. **Vulnerability** Training and guidance is given to Merkur Slots staff on vulnerability (the inability or limited ability of people to control their actions). This includes addictive gambling, mental health, alcohol or drugs issues. Marketing and Promotional activity complies with LCCP and standards set by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP). All staff complete on boarding and 6 monthly refresher training which includes Safeguarding Children and Vulnerable People and Customer Interaction. Staff are trained how to deal with vulnerable customers and how to make effective interactions, any difficult cases are referred to our compliance team for review and resolution. **Customer Interaction** Merkur Slots provide comprehensive customer interaction training, instruction and supporting policies to all staff in this area (via training platforms, training centres and Compliance Manual).

	Medical Centres, Care Homes and Mental Health facilities Kidderminster Medical Centre, Waterloo St, DY10 2BG Community Paediatric Therapy Department, Bromsgrove St, DY10 1PG Centre Kidderminster Centre, Bromsgrove St, DY10 1PG Hume Street Medical Centre, Hume St, DY11 6SF Life Line Screening, Town Hall, Vicar St, DY10 1DA Kidderminster - Minor Injuries Unit, Bewdley Rd, DY11 6RJ Dr Gillian Blanchard, waterloo, worstershire DY10 2BG The Linden Centre for Anxiety, Panic Attacks, Agoraphobia, OCD & Depression Recovery, Campion House, Green St, DY10 1JF The Church Street Surgery, David Corbet House, Callows Ln, DY10 2JG Dr. China Wellness, 108 Coventry St, DY10 2BH **Gambling premises** Betfred, 3A Vicar St, DY10 1DE William Hill, Unit 3, Not Provided, Towers Buildings, DY10 2DY William Hill, 41 Comberton Hill, DY10 1QN William Hill, 112/113 Bewdley Rd, DY11 6RX Coral, 94 New Road, DY10 1AE Shipleys Bingo & Social Club, 38 New Rd, DY10 1AF **Residential Areas** The area containing High Street, Kidderminster is mainly non-residential as it forms part of the main retail district, residential is predominantly flats. There is higher than average level of social housing - 57% of household spaces, which contrasts with the national average of just over 18%. Volume of privately rented properties is also quite high – 31%. Housing occupancy is mainly single person. **Bus stops and other Transport links** Town Hall, Bus stop, DY10 1BT Kidderminster Railway Station, Comberton Road, DY10 1QZ **Locally Identified Premises** The Museum of Carpet, Stour Vale Mill, Green St, DY10 1AZ Kidderminster Railway Museum, Comberton Hill, DY10 1QX **Public Houses and Alcohol Licensed Premise** The Swan, Vicar St, DY10 1DE The Red Man, 92 Blackwell St, DY10 2DZ Pennies, 14-18 Bull Ring, DY10 2AZ Sportsman, 25 Wood St, DY11 6UE The Weavers Real Ale House, 98 Comberton Hill, DY10 1QH	Staff are provided with the training to enable them to provide guidance on safer and responsible gambling. Staff are trained on conducting effective customer interactions, identifying behavioural changes and how to identify and interact with players who exhibit signs of developing problems with their gambling. Staff are trained to monitor and record customer behaviour, spend and time spent gambling and customer interactions are used to assess customer source of funds/income where relevant. Customer interactions may result in the customer being guided to gambling support services such as Gamcare; encouraged to use a self-help tool to assist them with managing their gambling behaviour, such as the Playright App or Self-Exclusion. All customer interactions are recorded on the IHL SMART Tablet Interaction App, this data is collated centrally and regularly reviewed by an independent team of compliance auditors. **Player Protection** *To identify signs associated with problem gambling and people who may be at risk of gambling related harm* *Failure to provide information to customers on responsible gambling* *Failure to maintain and administer the self-exclusion process, including breaches and reinstatement reviews* Staff are aware of the importance of social responsibility and are trained to advise customers on gambling responsibly and the identification of potential gambling harm. 'Stay in Control' Posters and Leaflets containing the Gamcare helpline number are located in prominent locations within the premise and in private areas, such as customer toilets. Playright App available for customers to self-manage their play and spend and is able to send alerts to Merkur Slots Kidderminster if the customer enters at a time they have chosen not to play which instigates an interaction with the customer. Merkur Slots will actively seek to support and be involved in any local initiatives targeted at reducing harm caused by gambling Socially Responsible messaging is implemented on all digital B3 and Cat C machines.

	Ye Olde Seven Stars, 13-14 Coventry St, DY10 2BG Blue Bell, 423 Hurcott Rd, DY10 2QQ Watermill, Park Ln, DY11 6TL The Weavers, 40 Park Ln, DY11 6TG Tappeto Lounge, Riverside Walk, Exchange St, DY10 1BY Land Oak, Birmingham Rd, DY10 2SA Station Inn, 7 Farfield, DY10 1UG The Peacock, 60 Blackwell St, DY10 2EL The Castle Inn, 50 Park Ln, DY11 6TE The Weary Traveller, 204 Sutton Rd, DY11 6QJ Boars Head, 39 Worcester St, DY10 1EW The Golden Lion, George St, DY10 1PX	All machines display Gamble Responsibly stickers with helpline contact details. Senior Management are members of the Bingo Association Executive and Social Responsible Committees and BACTA Divisional and Social Responsible Committees. They take the opportunity to actively participate with these trade bodies, collaborating with other operators to promote responsible gambling initiatives including the development of an Accredited Gamcare training programme and the Machine Messaging trial and evaluation. **Deprivation** Whilst the premise may be near or in an area of relative deprivation, Merkur Slots takes the view that individual customers must be treated holistically and the information provided in this document are designed to identify individuals that could potentially be at risk of gambling related harm Merkur Slots operates on the basis that its controls and best practice is adopted at all times, therefore it is not a question of degrees of vigilance being implemented in different areas. **Homelessness** Some premises are used by the homeless for warmth and company. Merkur Slots treats all customers with dignity and has a clear policy on begging. Staff are trained to deal with vulnerable people in a sympathetic manner, any difficult cases are referred to our compliance team for review and resolution. Staff are trained how to manage situations with homeless people seeking refuge. A line of contact will be created with local high risk premises, homeless shelters, foodbanks to provide social responsibility information.
Preventing gambling being a source of crime or disorder, being associated with crime and disorder or being used to support crime	**Crime statistics** High Street, Kidderminster, DY10 2DJ is within the Greenhill policing neighbourhood, under the West Mercia Police force area. In the year ending June 2019, the crime rate in Kidderminster area was lower than the average crime rate across similar areas including Thanet, Tameside or Mansfield. No crimes were reported on High Street, Kidderminster in June 2020 but 215 crime incidents took place within half a mile of the centre of DY10 2DJ predominantly consisting of Anti-social behavior (101), Violence and sexual offences (48) and Shoplifting (22). There are current policing priorities for this area. **Local Police**	**Premise Security and violence in the workplace** *Poor security control measures which may increase vulnerability to crime* *Failure to protect employee and customers from harm during the hours of late night opening* Merkur Slots Kidderminster is subject to a separate security risk assessment, local factors are considered and proportionate control measures/physical security measures are installed. Merkur Slots Kidderminster will be fitted with a HD CCTV system with coverage of all public areas including all entry and exits points, CCTV will be clearly advertised to

	Local police have been contacted in relation to the application – a response is awaited. Kidderminster Police Station, Habberley Rd, DY11 6AN **Public Houses and Alcohol Licensed Premise** The Swan, Vicar St, DY10 1DE The Red Man, 92 Blackwell St, DY10 2DZ Pennies, 14-18 Bull Ring, DY10 2AZ Sportsman, 25 Wood St, DY11 6UE The Weavers Real Ale House, 98 Comberton Hill, DY10 1QH Ye Olde Seven Stars, 13-14 Coventry St, DY10 2BG Blue Bell, 423 Hurcott Rd, DY10 2QQ Watermill, Park Ln, DY11 6TL The Weavers, 40 Park Ln, DY11 6TG Tappeto Lounge, Riverside Walk, Exchange St, DY10 1BY Land Oak, Birmingham Rd, DY10 2SA Station Inn, 7 Farfield, DY10 1UG The Peacock, 60 Blackwell St, DY10 2EL The Castle Inn, 50 Park Ln, DY11 6TE The Weary Traveller, 204 Sutton Rd, DY11 6QJ Boars Head, 39 Worcester St, DY10 1EW The Golden Lion, George St, DY10 1PX **Pawnbrokers and Loan Shops** H&T Pawnbrokers, 20 Bull Ring, DY10 2AZ ReGenerate, 4, 58-59 Worcester St, DY10 1EL CEX, 82 Worcester St, DY10 1EH **Gambling premises** Betfred, 3A Vicar St, DY10 1DE William Hill, Unit 3, Not Provided, Towers Buildings, DY10 2DY William Hill, 41 Comberton Hill, DY10 1QN William Hill, 112/113 Bewdley Rd, DY11 6RX Coral, 94 New Road, DY10 1AE Shipleys Bingo & Social Club, 38 New Rd, DY10 1AF **Residential Areas (impacted by Anti Social Behaviour)** The area containing High Street, Kidderminster is mainly non-residential as it forms part of the main retail district, residential is predominantly flats. There is higher than average level of social housing - 57% of household spaces, which contrasts with the national average of just over 18%. Volume of privately rented properties is also quite high – 31%. Housing occupancy is mainly single person.	customers with screens visible by staff when working in the service area. Ability to review CCTV remotely and provide footage to relevant parties when required. Floor layout will be designed to avoid blind spots to enable the active management and observation of customers entering and leaving the premises, from the central service area the entrances, machines and toilets can be observed and staff will regularly patrol the gaming floor to supervise and interact with customers to identify underage or vulnerable persons. **General Crime and Disorder** *To identify aggressive customers to prevent crime and disorder* *Awareness of local crime issues in the local area* We have reviewed the Police.UK hot-spot mapping for Greenhill policing neighbourhood and are aware of the areas of Recorded Crime, Vulnerable People and Vulnerable Places and are very mindful of the potential damage associated with problem gambling. We will make every effort to liaise with West Mercia Police over reducing our involvement in any incident. Staff are trained to identify suspicious activity and have the ability to interrogate real-time machine data to identify criminal activity and fraudulent incidents which are logged and escalated where appropriate. All incidents are recorded on the IHL SMART Tablet Incident App inc. crime reference number where applicable. Staff are trained on how to deal with aggressive customers and situations which may also require police assistance. The company operate an internal security alert system and are registered with trade associations for crime bulletins (Bingo Association and BACTA). Machine data is captured in real-time and full secure cash reconciliation is completed on a weekly basis, the machine exceptions are monitored by a centrally based income protection team and all exceptional cash losses are investigated by the internal audit compliance team. Merkur Slots Kidderminster will participate with any local/town centre scheme and actively seek to support and be involved with any local initiatives targeted at reducing crime and/or disorder and will engage in the sharing of information with other businesses to support the local community. **Anti-social behaviour outside the premise**

	There was significantly high volume of Anti- social behavior incidents reported within half a mile of High Street, Kidderminster in June 2020 but none of them occurred on Hight Street itself.	Whilst Public Nuisance is not a Licensing Objective and the Gambling Commission has made clear that 'disorder' means serious disorder, Merkur Slots recognise that public nuisance can escalate in certain circumstances and as a corporate citizen, it has a responsibility to work in partnership with local residents and authorities to reduce environmental impacts. Staff are aware to monitor the outside of the premise and surrounding area for anti-social behaviour and take appropriate steps within reason to minimise the risks. Incidents of anti-social behaviour are recorded on the IHL SMART Tablet Incident App. Staff are trained to be extra vigilant where there is clear evidence of continued anti-social behaviour occurring in the vicinity and encourages a partnership approach with local authorities. Where short term risk is created by young people congregating nearby or attempting to enter the premise staff are trained to closely monitor the entrance. In extreme cases the maglock system would be deployed. **Money Laundering** *Failure to identify the occurrence to launder money on our premises (e.g. dyed stained notes, fake notes, foreign coins) and to adhere to reporting policies and procedures.* Merkur Slots has a designated Anti Money Laundering Officer (AMLO) and AML polices with clear escalation and reporting processes. There are 2 pawnbrokers and loan shops in the vicinity, staff are trained to monitor and record customer behaviour, spend and time spent gambling and customer interactions are used to assess customer source of funds/income where relevant, enhanced scrutiny will be implemented where concerns of criminal activity or association of are suspected. Any suspicious activities are reported to the nominated officer who will report to NCA where appropriate. IHL SMART Tablet AML App is used to record AML incidents with emails alerts sent directly to the AMLO. Security alerts and photos of suspects are shared with other operators. CCTV systems available for additional monitoring of activity and MARS (machine data capture system) provides individual transactions and fraud alerts for suspicious activity. Anti-fraud analysis on MARS (machine data capture system) identifies suspicious gaming activity.

		Adequate staff will be maintained at all times and subject to regular review and risk assessment. Any period of single-staffing is managed by the lone-working policy, locked door policy, remote monitoring of CCTV and keeping in touch policy. Merkur Slots Kidderminster will operate TiTo machines with a central redemption change machine GeWeTe, the GeWeTe is fitted with a duress code facility and built in time delay. Staff do not carry cash floats and only management can open the machines and change machines. Venue and machine keys are secured in a time delay safe accessible only by Duty Management. The premise and staff will be protected by a Staffguard security system, Maglock and intruder alarms will be installed. Staff are trained to deal with incidents of a criminal nature and aggressive persons. There are support mechanisms available to staff, including counselling and an Employee Assistance Programme. **Alcohol and Drugs** Anti-social behaviour caused by alcohol is not tolerated within our premises and there are comprehensive security and reporting processes to escalate, report and deal with any issues as they arise. 'No Alcohol Allowed' signage on the door. Drug misuse is not tolerated within the premise and in locations where there is heightened risk, the toilets are locked with access monitored and controlled by the staff. Staff are aware to refuse access to any person who is or appears to be under the influence of alcohol or drugs, or adopting anti-social behaviour, any such incident will be logged on the IHL SMART Tablet Incident App and depending on severity will be reported to the police. Staff are trained to be extra vigilant where there is clear evidence of street drinking in the vicinity and encourages a partnership approach with local authorities. Maglock systems will be deployed during times of public houses closing. **Money Lending**

		Money lending is not tolerated within our premises. Suspicions of organised money lending by illegal money lenders are escalated to the audit compliance team and onwards to local authority money lending teams.
Ensuring that gambling is conducted in a fair and open way		**Bingo/Gaming Machine and Supervision** The premise will operate under a Bingo Licence, with proprietary bingo equipment, and a range of category B3 (max stake £2/prize £500), C (max stake £1/prize £100) and D (max stake 10p/prize £5) machines (company average stake is 30/40p). Bingo will be available by means of G-Tab tablets offering a range of Bingo products and Live calling. **Customer Complaints** *Failure to prevent customers complaints and disputes regarding gambling within our premises* *Failure to resolve customer's complaints and disputes regarding our gambling premises.* Merkur Slots operate a clear customer complaints policy both within venues and via a customer complaints link on the website. The Company Code of Practice and Complaints and Disputes Policy will be displayed on the Customer Information Board at the entrance with leaflets available within the premise - ADR provider is IBAS. Complaints management policy in place for written, telephone and complaints received via the 'customer complaints' link on company website. Complaints portal used to collate and manage responses. 4 stage complaints procedure with ADR entity Independent Betting Adjudication Service Ltd (IBAS) for unresolved complaints. Staff are trained and encouraged to use positive discretion to resolve customer complaints in venue. **Marketing** Merkur Slots promote responsible gambling and social responsibility throughout all marketing campaigns. Marketing and Promotional activity complies with LCCP and standards set by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP).

		External windows will have digital marketing screens which will display safer gambling messages, No Under 18's allowed, Think 25, Bingo Played Here, opening times and promotional activity. All marketing campaigns are reviewed for appropriateness before being launched. No advertising is used that depicts images that may appeal to children.
Other	**Places of worship and Religious Buildings** New Meeting House Unitarian, Church St, DY10 2AR Baxter URC Church, 8-9, Bull Ring, DY10 2AA Trinity Methodist Church Centre, 3 Churchfields, DY10 2JL St. Mary and All Saints' Church, DY10 2JN St.George's Church and Churchyard, 43 Coventry St, DY10 2BT St Ambrose R C Church, 226 Birmingham Rd, DY10 2BY The Parish Church of Saint John the Baptist, 103 Bewdley Rd, DY11 6RL Articles of Faith, 388 Hurcott Rd, DY10 2QH The Salvation Army Christian Worship and Community Centre, 19 Queen St, DY10 2NJ Jubilee International Church, 61 Hoo Rd, DY10 1NB The Church of Jesus Christ of Latter-day Saints, 8 Birmingham Rd, DY10 2BX Milton Hall Baptist Church, Lorne St, DY10 1SY St. George's Parish Church, DY10 2BS Madani Masjid, Radford Ave, DY10 2EN	**Ethnicity and Local Area Demographic** Merkur Slots does not discriminate on the ground of ethnic or social demographic. Local area profiles which detail deprivation, social, ethnic or population may be used as part of the risk assessment in relation to gambling related harm in conjunction with the company standard controls. Merkur Slots takes a holistic approach to customers and is aware that the Equality Act precludes the exclusion of any group for generalised reasons. Merkur Slots will participate with any local/town centre scheme and actively seek to support and be involved with any local initiatives targeted at reducing deprivation (crime/employment/health) and engage in the sharing of information. **Training & Social Responsibility** Merkur Slots take responsible gambling and social responsibility seriously, ensuring all staff are fully trained to carry out their roles in a responsible manner. There are two National Training Centres and a dedicated Learning and Development Team. Bingo Association, Gamcare Accredited training completed by members of management. All staff complete on boarding and 6 monthly refresher training: The Essentials of Compliance, Safeguarding Children and Vulnerable People; Age Verification and Customer Interaction. Staff are aware of the importance of social responsibility, trained to advise customers of gambling responsibly and identifying potential problem gamblers. Compliance and Social Responsibility Folder and Player Protection Framework containing policies and procedures is available to all staff. Venue Mangers review compliance logs monthly, Area Managers Bi monthly and Compliance Auditors twice yearly.

		COVID 19 All staff receive training on COVID-19 guidelines. Control measures clearly displayed at the entrance, temperature checks prior to entry and hand sanitisers available on entrance and throughout premise. Masks made available to customers. Appropriate social distancing signage throughout the gaming area and maximum capacity limits enforced. COVID-19 Daily Check, B3 Ratio Check and Customer Track and Trace will be recorded on the IHL SMART Tablet.

Merkur Slots Kidderminster Premise Layout

Premise level:	Merkur Slots High Street Kidderminster is a ground level premises on a corner plot with access to upstairs space.
Premise frontage:	Merkur Slots Kidderminster will be a property will be of a style which obscures the interior with digital Marketing Screens displaying safer gambling messages, no under 18's, opening times. Marketing and promotions will comply with LCCP and standards set by the Committee of Advertising Practise (CAP) and Broadcast Committee of Advertising Practise (BCAP)
Counter Position:	Merkur Slots Kidderminster will have a floor layout will be designed to avoid blind spots to enable supervision of entrances and machines from the central service area and staff will regularly patrol the gaming floor to supervise and interact with customers and identify underage or vulnerable persons.
Floor layout:	Merkur Slots Kidderminster floor layout will be designed to avoid blind spots to enable the active management and observation of customers entering and leaving the premises, from the central service area the entrances, machines and toilet can be observed and staff will regularly patrol the gaming floor and interact with customers allowing identification of underage and vulnerable persons. 'Stay in Control' Posters and Leaflets will be located in prominent locations within the premise.
Machine Positions:	Merkur Slots Kidderminster will operate under a Bingo Licence, with proprietary bingo equipment, and a range of category B3 (max stake £2/prize £500), C (max stake £1/prize £100) and D (max stake 10p/prize £5) machines (company average stake is 30/40p). Bingo will be available by means of G-Tab tablets offering a range of Bingo products and Live calling.
Hidden Areas:	Merkur Slots Kidderminster will be fitted with a HD CCTV system with coverage of all public areas including all entry and exits points, CCTV will be clearly advertised to customers with screens visible by employees when working in the service area.

Additional Comments

I have worked in the Gaming Industry for 25 years in operations as a venue manager for 4 years and area manager for 20 years before moving to the Audit and Compliance department in 2019, prior to which I was in retail management. During my time in the industry, I have managed venues and areas in many locations from market towns such as Loughborough to large cities like Glasgow and Luton. When I was required to complete a Local Area Risk Assessment for the new Merkur Slots premises on High Street, Kidderminster I researched the area and then visited the location. I was accompanied on my visit by Chris Mann, Area Manager for Merkur Cashino whose area this venue will fall under. Chris has worked in the industry for 5 years prior to which he was employed in retail at manager and area manager level. He lives in Staffordshire and has always worked in the West Midlands, the closest Merkur Cashino venues under his control are Merry Hill and Brierley Hill where he has strived to develop strong teams competent in managing all the challenges presented to them.

This document provides an assessment of risk at premise level relating to the provision of these facilities for gambling. Praesepe is a national operator and employs a number of standard policies, procedures and control measures across all premises. These issues are clearly articulated in the "Compliance Manual"; to be found in the premise and in our Player Protection Framework. The company also carries out premises security risk assessments (available on request) and health and safety risk assessments which inter alia relate to the objective of keeping crime out of gambling.

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Where relevant, Praesepe has also taken into account any substantive local risks identified in a wide range of policy statements related to gambling and local area profiles specifically related to gambling. However the company does not operate discriminatory policies against any identified groups based on social demographic or ethnic origin. Therefore identification of issues relating to gambling related harm are based on individual customer behaviour; even where particular groups are identified through research at being at greater risk of gambling related harm.

Assessors Name:	Gill Clulow
Signature:	
Date:	13.08.2020

Mousesweet
Charles Rd
Woodland Ave
Woodland Ave
Woods Cres
Albertine Mews
Albertine Mews
Rose Hill
Rose Hill
High St
1 High Street
Hampden Ct
Coppice Lodge
Anne Rd
Woodland Ave
Heritage Ct
Quarry Bank Primary School
QB Motorcycles/Royal Enfield West Midlands
Motorbike dealer
New St
Tonya Fumagalli Bridal Make Up Artist
Tin Sing
Takeaway • Delivery
Queen St
The White Horse Inn
Quarry Bank Launderette & Dry Cleaners
CraftWork Joinery
Maughan St
Woodland Ave
Sheffield St
Sheffield St
The three A's Fish & Chips
Takeaway • Delivery
A4100
King St Passage
Black Art Tattoo Studio
Tattoo shop
Undaal
Takeaway • Delivery
King St
King St
Bower Ln
Chestnut Sheds And Fencing
J & S Autos
Occasions Fancy Dress
Costume hire service
Christ Church, Quarry Bank
Maughan St
Osborne Ct
Park Rd
QB Tyres
Tyre Shop
Bower Ln
Jantino
Ladies' Clothes Shop
Quick Stop enterprises ltd
Convenience Store
Dunslade Cres
Oak Street Trading Estate
Sun St
Dunsmore Dr
Park Rd
A4100

Cashino Gaming Limited
Operational Standards

WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

THE LICENSING OBJECTIVES UNDER THE GAMBLING ACT 2005

- 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

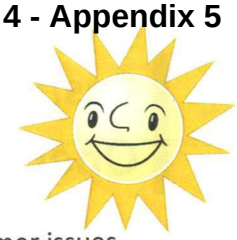
Objective 1 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

- Cashino Gaming Limited is aware that it must notify the Gambling Commission should we suspect that offences under the Gambling Act 2005 are being committed.
- Cashino Gaming Limited complies with the Commission's advice on the Proceeds of Crime Act 2002.
- Cashino Gaming Limited has completed its own Business Anti-money laundering risk assessment, local area risk assessments and implements anti-money laundering policies and procedures.
- If we suspect anyone of using our premises for the furtherance of criminal activity (for instance drug dealing, using counterfeit money, selling suspected stolen property and criminal damage) we will contact the police immediately, report to our Head of Compliance and record the instance in the AML and Incidents modules of the electronic Smart Tablet system.
- All Cashino Gaming Limited premises operate digital CCTV and customer areas are supervised.
- Cashino Gaming operates a group-wide Security Alert system where incidents are shared instantly with all licenced premises. We have an internal Fraud Measures Team that respond to and investigate incidents. As a BACTA member, we receive nationwide Security Alerts, which are circulated via the Security Alert system to all licenced premises.
- The employees in Cashino Gaming premises are required to carry a portable alarm which is provided by Staff Guard, a nationwide security company that offers 24hr support via a monitoring centre with fully trained operatives who advise on difficult situations and escalate appropriately.
- Cashino Gaming Limited has an extensive security, audit and money laundering team monitoring employees and customer activity.
- All Cashino Gaming employees complete six-monthly refresher training which covers this licencing objective; anti-money laundering policies and procedures; and guidance on the Proceeds of Crime Act 2002.
- Cashino Gaming operate a robust late night working policy, which is fully supported by a full-time Night Manager.
- Cashino Gaming does not operate a single-manning policy between 8pm and close, however, should an emergency occur a 'locked door' and 'keep in touch' policy is implemented.

Objective 2 - Ensuring that gambling is conducted in a fair and open way.

- Our gaming rules are prominently displayed in each of our licensed premises.
- Our employees have a full understanding of machine gaming rules.

Cashino Gaming Limited
Operational Standards



- We encourage customer-facing employees to use positive discretion to resolve customer issues at a local level, where possible.
- Our Customer Complaints procedure is display prominently in every venue. Where customer disputes cannot be resolved satisfactorily, we refer all potential disputes to our appointed Alternate Dispute Resolution provider (IBAS).
- All venue managers attend our National Training Centre for a thorough induction programme prior to taking on responsibility of their own venue and team.
- All licensed premises employees receive induction and six-monthly refresher training during the course of their employment to ensure that potential issues can be addressed at the earliest opportunity.

Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

- All our licensed premises are strictly adult only and we provide appropriate notification on entry, on all marketing material and throughout our premises.
- We operate a Think 25 policy as standard and all employees are trained to request a photographic form of identity if they suspect that a customer is under age. All challenges are recorded on our Smart Tablet system under Age Verification Checks and Check Policy are our third-party independent partner for compliance testing.
- All licensed premise employees receive induction and six-monthly refresher training during the course of their employment on social responsibility and safeguarding children and vulnerable people, with a particular focus on the prevention of harm.
- We prominently display information throughout our licensed premises on responsible gambling and provide details of organisations that can provide support and guidance such as BeGambleAware.
- Playright is installed in all licenced premises - this is a self-help App available to customers to enable them to manage spend and play time.
- Socially Responsible messaging is implemented on B3 and Category C digital machines.
- All licensed premise employees are trained to identify potential at risk customers and conduct effective interactions. Customer interactions are recorded on the Interactions module on the electronic Smart Tablet and reviewed centrally by the Compliance team.
- We implement a self-exclusion policy throughout our licensed premises and operate a Smart Tablet system for recording self-exclusions, reinstatements and breaches. We are also members of the Bingo Association Multi-Operator Self-exclusion Scheme.
- The layout of our premises is designed to facilitate customer supervision by employees.
- We provide an annual donation in support of research, education and treatment of problem gambling.

All three licensing objectives are embedded at all levels within the organisation via training both on-line and face to face, during Operational meetings, Business Bulletin communications, Compliance/Audit visits and annual conferences.

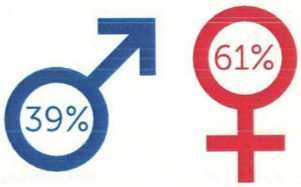
WORCESTERSHIRE REGULATORY SERVICES
25 AUG 2020

PART OF THE GAUSELMANN GROUP
A Strong Partner For More Than 60 Years

praesepe

Praesepe is a subsidiary of the family run Gauselmann Group who are based in Espelkamp (Germany). Over the last 60 years the group has grown to operate more than 700 venues across Europe under the Merkur Brand. Millions of enthusiastic guests at home and abroad know our logo. The laughing MERKUR Sun is a guarantor for the best Entertainment.

Praesepe employs over 1,600 people (61% female*) over the 5 Bingo Clubs, 160 High Street Gaming centres (73 High Street Bingos and 87 Adult Gaming Centres) and 5 Family Entertainment Centres under three main brands:



61% of employees are female

39% of employees are male

MERKUR CASHINO

Merkur Cashino is an established brand in the UK and represents the very best in terms of exciting "slot gaming" and high street bingo entertainment through delivering to our customers the latest in venue product and atmosphere. These venues are known for their highly trained teams and first class face to face service.

MERKUR SLOTS

Merkur Slots is a new up and coming brand in the UK bringing the latest fun slots & bingo experience in smaller sized high street locations.

BEACON bingo

Beacon Bingo clubs are very important to our customers in their local communities. Our teams strive to deliver not just great service but a bingo experience which focusses on ambience, safety and fun in a modern environment. The flagship venue at Cricklewood, in North London, is the largest in Europe.

HIGH STREET BINGO

What is it?

Bingo is one of the UK's favourite pastimes and Praesepe is one of the UK's largest operators of licensed bingo and arcade premises. Our High Street Bingo Venues:

Offer more local, convenient locations to play Bingo rather than travelling to larger clubs.

Our teams remain with the customers on the venue floor rather than behind a counter.

Our customers can attend and play bingo at any time with the numbers auto-called.

The market on the high street has evolved with venues now providing Electronic Bingo Tablets.

Bingo is available for play from 9am until midnight.

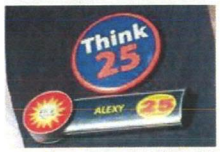
Our Bingo terminals offer B3, Cat C and Cat D products with an average stake of between 30-40p stake.

Bingo Terminals

Think 25

RESPONSIBILITY IS THE FOUNDATION OF OUR BUSINESS

Think 25 Messaging



Players in Venue

We Are Not A Problem

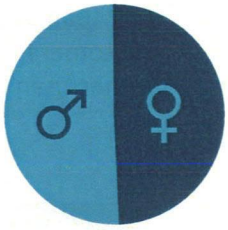
Being a responsible operator is high priority across the Gauselmann group and in the UK Praesepe is always looking at ways to adhere to the three licensing objectives as technology and customer behaviour changes.

GAMBLING COMMISSION

Praesepe is regulated by the Gambling Commission and Licensing Authorities

We provide complimentary refreshments, teas and coffees, to customers and do not sell alcohol. Our staff will not allow anyone into the premises who appears to be intoxicated.

We are immensely proud of the fact that we have never had a licence revoked or even reviewed . Incidents are extremely rare. We simply do not generate noise and anti social behaviour.



Our venues operate a Think 25 policy whereby any person's who look under 25 have to produce a form of photo ID.

Our venues appeal to all ages with our membership gender database split of 52 % Male / 48% Female

Our venues have 3 external age test visits per year with a compliance rate of over 94% for the last 3 years, compared to other industries that sit around 80%.

SOCIAL RESPONSIBILITY MEASURES IN PLACE

In Venue

Operationally we have a number of measures in place to protect our customers. Throughout the business Praesepe also has a number of socially responsible gambling tools, management and training that include:

All staff complete on-boarding and six-monthly refresher training on "The Essentials of Compliance and Social Responsibility" and "Safeguarding Children and Vulnerable People".

Dedicated Learning & Development Team and National training centres.

IHL SMART tablet in every venue for the recording of customer interactions, self-exclusions, incidents and alerts.

All Data is centrally reviewed and evaluated by an independent Audit/Compliance team.

Six monthly compliance audits to help identify training needs in venue.

Local Area Risk Assessments are updated annually to identify any changes in the local area.

PlayRight app installed in all venues that is a self help tool for customers to manage their gambling.

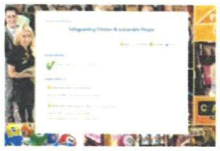
Compliance

Training Centre

PlayRight App

playRIGHT

Online Training



SOCIAL RESPONSIBILITY MEASURES IN PLACE

Machine Messaging

Customer Interaction Training

All Levels

We provide an annual assurance statement to the Gambling Commission. This officially details the Board's commitment to the company values, purpose and culture and the accountability placed on delivery of the licensing objectives.

The statement contains information on how we operate effective governance, regulatory risk management, compliance controls, social responsibility and safer gambling initiatives.

It is also an opportunity to set out any initiatives relating to significant changes being introduced to improve control systems, risk-management, governance and safer gambling – Our recent commitments include; Socially Responsible Machine Messaging; Customer Set Your Limits; SMART Alert application to report criminal activity; opening our Second National Training Centre; Think 25 messaging and Customer Interaction Training.

Praesepe also engages with the **Bingo Association** and **Bacta** trade groups:

bacta
Empowering the UK's amusement machine industry

- Senior Manager representation Divisional meetings.
- Operations Director is the Vice Chair for division 3 representing Adult Gaming Centres.
- Member of the National Council.
- Head of Compliance is Vice Chair of the Social Responsibility Committee.

Bingo
THE BINGO ASSOCIATION

- Operations Director and Head of Compliance are Directors.
- Head of Compliance is a member of the Social Responsibility Committee.

BENEFITS TO THE HIGH STREET

Benefits for your High Street Include:

Investment from £100,000 to £250,000 in long standing vacant venues.

Increased footfall to the high Street.

Linked trips with other shops helping to support other businesses.

Local jobs of between 6 and 12 people depending on the hours of operation.

We provide an important natural surveillance on the high street, particularly late into the evenings.

COMMUNITY & CHARITY

bacta charitable trust

Rays of Sunshine

The ROYAL MARSDEN Cancer Charity

TEENAGE CANCER TRUST

GREAT ORMOND STREET HOSPITAL CHARITY

Praesepe has raised in excess of £1.2m for good causes since 2005 and currently supports the Bacta Charitable Trust.

Please contact us.

Praesepe PLC
Seebeck House
1A Seebeck Place
Knowlhill
Milton Keynes
MK5 8FR

phone 01908 351200
email info@praesepeplc.com

praesepe

I, **Hannah Worthington** in the firm of Messrs, Poppleston Allen, Solicitors of 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS refer to the following:-

1. Letter to Wyre Forest District Council dated **24 August 2020**
2. Application Form
3. Notice of Application
4. Licensing plan drawing number **HS/KID/02**
5. Layout plan for illustrative purposes only
6. Local Area Risk Assessment
7. Copy of Cashino Gaming Limited's Operational Standards
8. Copy of Cashino Gaming Limited's 'Working Together'
9. Cheque in the sum of £3,085

I FURTHER CERTIFY that I have served documents 1 - 9 upon the following:-

1. Licensing Section, Wyre Forest District Council, Duke House, Kidderminster, DY10 2JX

I FURTHER CERTIFY that I have served a true copy of documents 1 & 3 upon the following:-

2. West Mercia Constabulary , Kidderminster Police Station, Habberley Road, Kidderminster, DY11 6AN
3. HM Revenue & Customs, Business, Tax and Customs, HM Revenue and Customs, BX9 1GL
4. Hereford & Worcester Fire & Rescue Service, Headquarters, 2 Kings Court, Worcester, WR5 1JR
5. The Gambling Commission, 4th Floor, Victoria Square House, Victoria Square, Birmingham, B2 4BP
6. Children's Services (Safeguarding), Initial Screening & Contact (Access Centre), PO Box 589, , Worcester, WR4 4AH
7. Planning Services Directorate, Wyre Forest District Council, Wyre Forest House, Kidderminster, DY11 7WF
8. WORCESTER ONLY - Environmental Health, Wyre Forest Borough Council, Duke House, Clensmore Street Kidderminster, DY10 2JX

I effected service by sending the said documents to the licensing department by **Special Delivery** and the other authorities by first class post addressed to them on 24 August 2020

SIGNED..... DATED...24 August 2020.....

From: Norris,Kirsty
Sent: 13 September 2020 14:33
To: WRS Enquiries
Subject: External Email : FW: Merkur Slots, Part Ground Floor, 1 High Steet, Kiddeeminster, DY10 2DJ

Importance: High

This email originated from outside of the organisation
STOP : Were you expecting this email? Does it look genuine?
THINK : Before you CLICK on any links or OPEN any attachments.

Hello,
Below is the agreed added licence terms for the stated premises.
Im happy with this now.
Many thanks
Kirsty

From: Richard Bradley
Sent: 03 September 2020 09:52
To: Norris,Kirsty
Subject: Merkur Slots, Part Ground Floor, 1 High Steet, Kiddeeminster, DY10 2DJ
Importance: High

Hi Kirsty,

Thank you for you call yesterday.

I have discussed your general security concerns with our client and they are happy to attach the following conditions to the premises licence if they address you concerns.

1. The premises shall install and maintain a comprehensive CCTV system, which shall continually record whilst the premises are open. All recordings shall be stored for a minimum period of 31 days. Viewing of recordings shall be made available upon the request of Police or an authorised officer of the Licensing Authority, subject to data protection legislative requirements.

2. An incident log shall be kept at the premises and made available on request to an authorised officer of the Licensing Authority or the Police. Details to include:

    a. all crimes reported to the venue
    b. all ejections of patrons
    c. any complaints received concerning crime and disorder
    d. any incidents of disorder
    e. all seizures of drugs or offensive weapons
    f. any visit by a relevant authority or emergency service.
    g. any attempts by children and young persons to gain access to the premises to gamble
    h. any Challenge 25 Refusals.

3. A think 25 proof of age scheme shall be operated at the premises where any person who appears to be under 25 years of age, and who has not previously provided satisfactory proof to the contrary, is

challenged at the point of entry. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

4. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises.

5. Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.

6. The appropriate staffing levels will be assessed by way of risk assessment and cognisance will be taken of any police advice

7. The licensee shall participate in a local Betwatch or similar scheme, where available. – **Do you have any schemes as I appreciate this may not be relevant.**

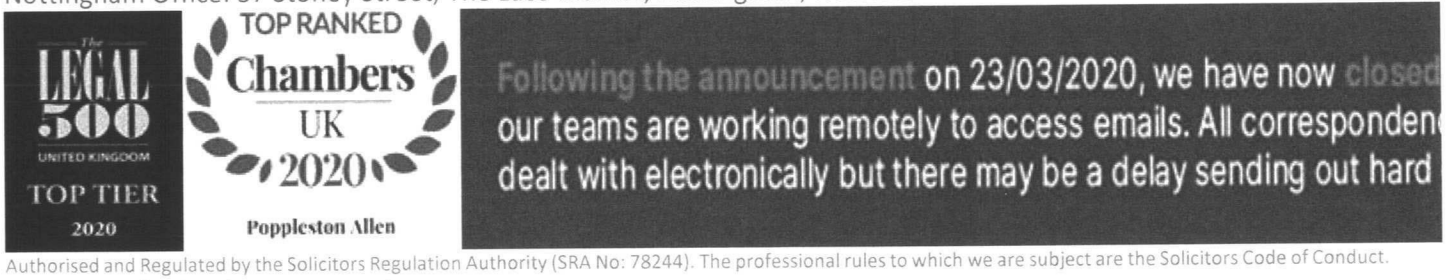
8. The licensee shall take reasonable steps to prevent nuisance directly outside the Premises.

9. If trading past midnight the Maglock will always be in use.

If you have any questions I am happy to discuss the details further.

Kind regards,

Richard
Richard Bradley | Associate Solicitor
Poppleston Allen
V:www.popall.co.uk
Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS



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This email has been scanned by the Symantec Email Security.cloud service.
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WYRE FOREST DISTRICT COUNCIL
15 SEP 2020

Dear who this may concern,

BINGO APPLICATION, REFERENCE MERKUR HIGH STREET KIDDERMINSTER

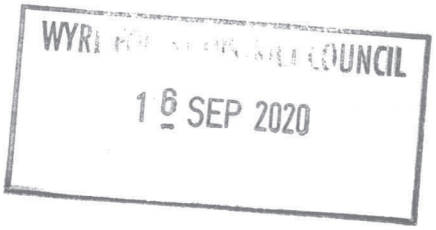
As a member of the Kidderminster population I have great concern within the planning permission opposed by merkur bingo to hold a license with in Kidderminster town centre,

I would be most grateful if you would accept this letter as an objection for permission being granted for the business to take place.

With the business being situated by a local hot stop for youths and older groups to hang out within Kidderminster town centre being: pennies bar and grill, I believe anti social behavior will occur and become even higher with in the town centre especially late at night with the understanding murker will hold a 24 /7 license , with pennies holding a license to serve alcohol to the public so close and punters having the option to consume alcohol in front of the premises on an evening , I therefore would like to raise these as concerns .

I believe myself and many other residents of Kidderminster would like to have the license refused.

Yours sincerely



Dear Sir

Licence Application – Bingo licence - Merkur Cashino, 1 High Street Kidderminster

I am concerned that the council have received an application for bingo premises in this prominent shop (part of what used to be TJ Hughes) to be called Merkur Cashino at the above address.

I consider it will cause disorder in this part of the town centre and urge the council to refuse the licence. That would protect vulnerable people.

I am very confused about what this company is doing. It already has made a planning application for an 'adult gaming centre' but is applying for a 'bingo' licence. Are they seeking to confuse the public or councillors or both?

Yours sincerely

Wyre Forest District Council
Wyre Forest House
Finepoint Way
Kidderminster
DY11 7WF

WYRE FOREST DISTRICT COUNCIL
C/O WYRE FOREST HOUSE
FINE POINT WAY,
KIDDERMINSTER,
DY11 7WF.

WYRE FOREST DISTRICT COUNCIL
16 SEP 2020

To Whom it May Concern,

I have seen a notice on a disused property in Kidderminster town Centre and I can see that there are plans to make this into a bingo hall. I cannot see the point in having another bingo hall in the town Centre, where there is no parking facilities near by also the proposed property is next to a busy public house, with regular trouble occurances of a weekend.

The town is [redacted] already full of undesirables and I fear another [redacted] Establishment, such as this will only attract the wrong type, especially a 24 hr application.

Therefore, I strongly oppose any sort of gambling license that maybe applied for.

Yours Thankfully,

WYRE FOREST DISTRICT COUNCIL
16 SEP 2020

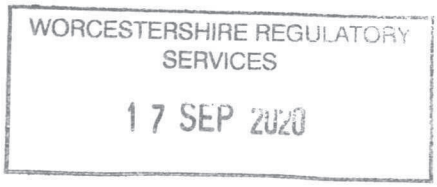
Wyre Forest District Council

Wyre Forest House

Finepoint Way

Kidderminster

DY11 7WF



Dear Sirs

Gambling Act Licence Application at 1 High Street, Kidderminster (part ground floor)

Having seen the site notice on this property I am concerned about the proposed bingo hall or premises being planned at this address.

I object because premises of this kind in the street, particularly if it opens 24 hours a day – as I understand is intended, will cause crime and disorder.

Because of that I hope the council will refuse the licence applied for.

Yours faithfully

Wyre Forest District Council

Statement of Principles

2019 – 2022

Gambling Act 2005

Wyre Forest District Council,
Wyre Forest House
Finepoint Way,
Kidderminster,
Worcestershire,
DY11 7WF
01562 732928
www.wyreforestdc.gov.uk

Revised with effect from: 31st January 2019

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Statement of Principles – Gambling Act 2005

1. Introduction

1.1 Wyre Forest district is situated in North West Worcestershire and comprises the three distinctive riverside towns of Kidderminster, Bewdley and Stourport-on-Severn as well as surrounding countryside. It covers an area of 75 square miles. In 2011, the population totalled 98,100 (2011 census).

1.2 Kidderminster is the main business and commercial centre in the district offering industrial areas, shopping, offices and leisure facilities. Kidderminster is famous for carpet manufacture and is still closely associated with the carpet industry**;** though since the 1970s the industry has been in decline leaving the town in a process of economic diversification. Kidderminster is also the terminus of the Severn Valley Railway. The national tourist attraction – West Midland Safari Park – lies between the towns of Kidderminster and Bewdley.

1.3 Stourport-on-Severn is a popular tourist town. It was uniquely created as a canal port in 1766, when the Canal Navigation Act for Worcestershire received Royal Assent. The Georgian Market Town of Stourport has benefited from significant tourism and today continues to be a thriving market town and a successful visitor attraction.

1.4 Bewdley is a small riverside town built along the banks of the River Severn. It contains many fine Georgian buildings, has an award-winning museum and is a popular tourist destination**.**

1.5 The Council's overall vision is that Wyre Forest should be a place "where people have the opportunity to enjoy a good quality of life and want to live, work, visit and invest". This Statement accords with that vision in seeking to pursue the 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.

1.6 The Licensing Authority has 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.

1.7 The Licensing Authority consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between April and June 2018 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.

1.8 The Licensing Authority intends that this document should provide information and guidance on the general approach to licensing. A series of advice sheets with more specific guidance is available from the Council's website or will be sent on request. Advice tailored to individuals is available by phone or to personal callers.

1.9 Nothing in this Policy takes away from 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 the Licensing Authority's Statement of Principles below.

2. Gambling Act 2005

2.1 This Policy reflects the corporate aim to make Wyre Forest a place "where people have the opportunity to enjoy a good quality of life and want to live, work, visit and invest" and is valid for up to three years from 1st February 2019, although the Licensing Authority may choose to review or revise it at any time.

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

2.3 The Licensing Authority's main functions are to:

- license 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 the issue of Licences

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises.

2.5 Spread betting is regulated by the Financial Services Authority.

2.6 The 'National Lottery' is regulated by the National Lottery Commission.

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 or by phone: 0121 230 6666.

4 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 is 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. Holders of premises licences will be notified whenever the Local Area Profile is updated.

5. 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.
- 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. General Statement of Principles

6.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority will 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 The Licensing Authority 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 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically the Licensing Authority will not have regard to "demand" when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.

6.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the 'Licensing Authority'.

6.5 Where an application is for a new premises licence, the responsible authorities will usually 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 Section168.

6.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the 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. 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 the Licensing Authority will issue a licence to use premises for gambling.

7.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority 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, the Licensing Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors registered by the Security Industries Association.

7.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. 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; the Licensing Authority 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 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

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

9. 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 are expected to heed this advice where applicable.

9.3 The Licensing Authority expects 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 the Licensing Authority 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 the Licensing Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

9.6 The Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance 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.

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 would therefore like to engage with the local Public Health team in the future development of this Statement of Principles and the Local Area Profile. It is hoped 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.
- Identify and interpret health data and evidence to inform the review of the Statement;
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

11. Local Risk Assessments

11.1 Since 6 April 2016 it has been be 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.

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 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 shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority 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. The Licensing Authority will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, 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 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. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.

12.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. Wyre Forest district has not been identified as a suitable location for a casino, consequently the Authority is prevented from granting a licence for casino premises at present.

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 The Licensing Authority 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, the Licensing Authority 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 the Licensing Authority 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 will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.

12.10 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if any 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.

12.11 The Licensing Authority 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 a state in which they should be before gambling takes place?

12.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

12.13 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.

12.14 The Licensing Authority 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 to Friday 9am – until 4.30pm.

13. Responsible Authorities

13.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that it can identify any risk. The responsible authorities that the Licensing Authority currently recognises are listed below:

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Wyre Forest District Council Development Control Section
- Worcestershire Regulatory Services – Community Protection, Business Compliance and Licensing
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State
- For vessels – the Environment Agency, British Waterways, Secretary of State

13.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website, and will be sent with application packs and on request.

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

14. 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 (including existing gambling premises), or
- represents persons in either of the two groups above.

14.2 The Licensing Authority will generally require written evidence that a person/ body, represents someone is 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 representations is sufficient. Whilst this may not apply to elected Ward Members, Member of Parliament 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 a person lives sufficiently close to particular premises as to be affected, the Licensing Authority 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 complaint; and
- 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, the Licensing Authority 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 The Licensing Authority 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 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 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. Licence Conditions

15.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives, in the particular circumstance of the case. 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. The Licensing Authority will not have recourse to a pool of standard conditions.

15.2 The Licensing Authority will ensure that category C machines or above 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. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.

15.3 Examples of some 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, Security Industry Authority licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. The

Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.

15.4 The Licensing Authority 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. 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 The Licensing Authority 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. 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 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

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.

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 are 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.

<u>Renewal of a Permit</u>

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. Temporary Use Notices

21.1 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. The Licensing Authority 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 chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mahjong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

22. Occasional Use Notices

22.1 Occasional use notices relate to particular activities at tracks. The Licensing Authority's only role is to ensure 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.

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. Exchange of Information

24.1 To ensure the licensing objectives are met, the Licensing Authority 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, the Licensing Authority will share any information it receives through the application process with the Gambling Commission, and any relevant responsible authority. In doing so the Licensing Authority will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State.

19.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, 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.

24.4 Individual requests should be made in writing via the Council's website foi@wyreforestdc.gov.uk.

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. Enforcement Protocols

25.1 The main enforcement and compliance role for the Licensing Authority 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 the Licensing Authority but will be notified to the Gambling Commission.

25.2 The Licensing Authority 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 The Licensing Authority 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. Reviews

26.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority 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 the statement of principles

26.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence.

26.3 The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks 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 the Licensing Authority, 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 it 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; or
- revoke the licence.

Scheme of Delegation

The Licensing Authority is responsible for making licensing decisions but may delegate some of its powers to authorised officers. The table shows how it is proposed decisions will be made.

Matter to be dealt with	Full Council	Licensing Sub-Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (where appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections have been made or 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	

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

Tourism Groups

Sporting venues

GAMBLING COMMISSION

Licence conditions and codes of practice

July 2020

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General introduction

1 This document sets out the Gambling Commission's general licence conditions and associated code of practice provisions (LCCP) under the Gambling Act 2005 (the Act).

2 The LCCP document sets out:

Part I: (in orange) licences	the suite of general conditions attached to operating
Part II: (in blue)	the principal code of practice, distinguishing between 'social responsibility' provisions and 'ordinary' provisions (the social responsibility provisions are in shaded boxes within the text)
Part III: (in purple) licences.	the suite of general conditions attached to personal

3 An index to the provisions is provided at the end of this document, and if using an electronic version of this document, links are provided from both the contents and index pages to aid navigation.

4 Copies of LCCP can be obtained from the Commission's website: www.gamblingcommission.gov.uk or by writing to:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B1 4BP
T 0121 230 6666
F 0121 230 6720
E info@gamblingcommission.gov.uk

5 The Commission also produces sector-specific extracts of LCCP and these will be made available on the website. Further information about the history of LCCP (such as the results of completed consultations) and potential future amendments to LCCP can also be found on the website.

6 This version of LCCP comes into force on 29 July 2020 for all operators and personal licence holders.

7 Relevant requirements of the conditions and code provisions have been notified in draft to the European Commission in accordance with Directive (EU) 2015/1535.

Part 1: Suite of general condition to operating licences under Section 75 of the Gambling Act 2005 (the Act)

1 Qualified persons and personal licences

1.1 Qualified persons

Licence condition 1.1.1
Qualified persons – qualifying position
All operating licences, except ancillary remote licences, issued to small-scale operators

1 In this condition the terms 'small-scale operator', 'qualifying position' and 'qualified person' have the meanings respectively ascribed to them by the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.

2 Schedule X[1] lists those individuals notified to the Commission as qualified persons.

3 If, whilst the licensee remains a small-scale operator, an individual begins or ceases to occupy a qualifying position in relation to the licensee, the licensee must within 28 days apply to the Commission under section 104(1)(b) of the Act for amendment of the details of the licence set out in Schedule X[1].

4 An application for amendment under section 104(1)(b) of the Act may be made in advance of an individual beginning or ceasing to occupy a qualifying position provided it specifies the date from which the change to which it relates is to be effective.

5 In this condition 'qualified person' has the same meaning as in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.

[1] The schedules mentioned here will be attached to individual licences.

Licence condition 1.1.2
Qualified persons – tracks
All non-remote general betting operating licences issued to small-scale operators

1 Schedule Y[1] to this licence lists those of the licensee's employees whose details have been provided to the Commission as authorised by the licensee to accept bets on the licensee's behalf on a track otherwise than under the supervision of a qualified person present on the same track.

2 Should the licensee wish to add an individual to the list or remove the name of an individual from the list the licensee must make application to the Commission under section 104(1)(b) of the Act for amendment of that detail of the licence. Any employee the licensee wishes to add to the list may act unsupervised pending amendment of the licence provided a valid amendment application has been lodged with the Commission.

3 In this condition 'qualified person' has the same meaning as in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.

[1] The schedules mentioned here will be attached to individual licences.

1.2 Personal licences

Licence condition 1.2.1
Specified management offices – personal management licences
All casino, bingo, general and pool betting, betting intermediary, gaming machine general, gaming machine technical, gambling software and lottery managers licences, except ancillary remote licences

1 Subject to 6 and 7 below, licensees must ensure:
   a that each individual who occupies one of the management offices specified in 2 below in respect of the licensee or in connection with the licensed activities holds a personal licence authorising the performance of the functions of that office (hereafter 'a personal management licence'); and
   b that at least one person occupies at least one of those offices

2 The specified management offices are those offices (whether or not held by a director in the case of a licensee which is a company, a partner in the case of a licensee which is a partnership or an officer of the association in the case of a licensee which is an unincorporated association) the occupier of which is by virtue of the terms of their appointment responsible for:
   a the overall management and direction of the licensee's business or affairs
   b the licensee's finance function as head of that function
   c the licensee's gambling regulatory compliance function as head of that function
   d the licensee's marketing function as head of that function
   e the licensee's information technology function as head of that function in so far as it relates to gambling-related information technology and software
   f oversight of the day to day management of the licensed activities at an identified number of premises licensed under Part 8 of the Act or across an identified geographical area
   g in the case of casino and bingo licences only, oversight of the day to day management of a single set of premises licensed under Part 8 of the Act.

3 The person responsible for the licensee's gambling regulatory compliance function as head of that function shall not, except with the Commission's express approval, occupy any other specified management office.

4 Licensees must take all reasonable steps to ensure that anything done in the performance of the functions of a specified management office is done in accordance with the terms and conditions of the holder's personal management licence.

5 Where an individual is authorised by a personal licence and that licence comes under review under section 116(2) of the Act, the operating licensee must comply with any conditions subsequently imposed on that licence by the Commission about redeployment, supervision, or monitoring of the individual's work and any requirements of the Commission in respect of such matters applicable during the period of the review.

6 Paragraphs 1 to 5 above shall not apply to a licensee for so long as the licensee is a 'small-scale operator' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 ('the Regulations').

7 During the period of 3 years commencing with the date on which a licensee ceases to be a small-scale operator paragraphs 1 to 6 above shall apply subject to the proviso that the phrase 'each individual' in paragraph 1a shall not include any individual who was a 'qualified person' (as defined in the Regulations) in relation to the licensee 28 days immediately prior to the licensee ceasing to be a small-scale operator.

Licence condition 1.2.2
Specified management offices – casino personal functional licences
All non-remote casino operating licences, except ancillary remote licences

1 In addition to paragraphs 1 to 6 in licence condition 1.2.1, licensees must ensure that if any of the following operational functions:
   a dealer in respect of casino games
   b cashier
   c inspector
   d security staff employed to watch gaming
   e supervisor of gaming activities

is performed in connection with the licensed activities, it is performed by an individual who holds a personal licence authorising performance of the function (hereafter 'a personal functional licence'). Licensees must take all reasonable steps to ensure that anything done in the performance of those functions is done in accordance with the terms and conditions of the personal functional licence.

Licence condition 1.2.3
Specified management offices – lottery personal management licences
All lottery operating licences issued to non-commercial societies and local authorities

1 Subject to 5 below, licensees must ensure that the individual who occupies the management office specified in 2 below in or in respect of the licensee or in connection with the licensed activities holds a personal licence authorising the performance of the functions of that office (hereafter 'a personal management licence').

2 The specified management office is that director's post in the case of a licensee which is a company, that partner in the case of a licensee which is a partnership, or that office in a licensee which is an unincorporated association or local authority, the occupier of which has overall management responsibility for the promotion of the lottery.

3 Licensees must take all reasonable steps to ensure that anything done in the performance of the functions of a specified management office is done in accordance with the terms and conditions of the holder's personal management licence.

4 Where an individual is authorised by a personal licence and that licence comes under review under section 116(2) of the Act, the operating licensee must comply with any conditions subsequently imposed on that licence by the Commission about redeployment, supervision, or monitoring of the individual's work and any requirements of the Commission in respect of such matters applicable during the period of the review.

5 Paragraphs 1 to 4 above shall not apply to a licensee for so long as the licensee is a 'small-scale operator' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006.

2 Technical standards, equipment specification, remote gambling equipment and gambling software

2.1 Key equipment

Licence condition 2.1.1
Access to (and provision of data from) key equipment
All remote casino, bingo and betting licences other than ancillary licences and remote betting intermediary (trading room only) licences

1 Licensees must, on request, permit an enforcement officer to inspect any of their remote gambling equipment and/or provide to the Commission copies of data held on such equipment in such format and manner as the Commission may request.

2.2 Gambling software

Licence condition 2.2.1
Gambling software
All remote casino, bingo and betting licences other than ancillary licences and remote betting intermediary (trading room only) licences

1 All gambling software[1] used by the licensee must have been manufactured by the holder of a gambling software operating licence. All such gambling software must also be supplied to the licensee by a holder of a gambling software operating licence. Such software must only be installed or adapted by the holder of such a licence.

[1]As defined in section 41(2)&(3) of the Act

2.3 Technical standards and equipment specifications

Licence condition 2.3.1
Technical standards
All non-remote gaming machine technical and gambling software licences and remote operating licences, including remote gaming machine technical, remote gambling software and betting ancillary remote licences, but not remote betting intermediary (trading rooms only) licences

1 Licensees must comply with the Commission's technical standards and with requirements set by the Commission relating to the timing and procedures for testing.

Licence condition 2.3.2
Bingo equipment specifications
Non-remote bingo operating licences and bingo ancillary remote licences

1 Licensees must comply with the Commission's specification for bingo equipment.

Licence condition 2.3.3
Casino equipment specifications
Non-remote casino operating licences and casino ancillary remote licences

1 Licensees must comply with the Commission's specifications for casino equipment.

3 Peer to peer gaming, other networks and hosting

3.1 Peer to peer gaming, other networks and hosting

Licence condition 3.1.1
Peer to peer gaming
Remote casino licences (except ancillary remote and casino (game host) licences)

All licensees who provide facilities for peer to peer gaming in circumstances in which they do not contract directly with all of the players using those facilities ('network operators') must have, put into effect and monitor the effectiveness of, policies and procedures designed to ensure that:

1. every player using the facilities in Great Britain ('a domestic player') is doing so pursuant to a contract entered into between that player and the network operator, or that player and another holder of a Gambling Commission remote casino operating licence;
2. every player who is not a domestic player but who participates in a game of chance in which a domestic player also participates is doing so pursuant to a contract between that player and the network operator, or that player and another holder of a Gambling Commission remote casino operating licence, or a gambling operator not licensed by the Gambling Commission through which participants use the facilities outside Great Britain and which:
    - a. holds all licences or permissions (if any) required in relation to its provisions of facilities for peer to peer gaming by the laws of the state or states in which it is domiciled or incorporated;
    - b. has been approved by the network operator, after conducting due diligence enquires into those individuals who appear to the network operator to have a material financial interest in it, as suitable to provide those facilities; and in particular,
    - c. has in place policies and procedures in respect of the identification of customers which in the network operator's reasonable opinion satisfy requirements as to the customer due diligence broadly equivalent to those set out in Directive 2005/60/EC ('the Third Money Laundering Directive') or any subsequent replacement for re-enactment thereof;
3. the arrangements between the network operator and any remote casino licence holder through which domestic players access their facilities, and with gambling operators not licensed by the Gambling Commission through which players use their facilities outside Great Britain, provide in clear terms which operator is to be responsible for the handling of which categories of customer complaint and dispute; in particular such arrangements must provide how a dispute involving players from more than one jurisdiction is to be handled;
4. the network operator's arrangements for the sharing of information both with any remote casino licence holder through which domestic players access their facilities and with gambling operators not licensed by the Gambling Commission through which participants use the facilities outside Great Britain are such as to enable all parties to discharge effectively their respective regulatory obligations, in particular in relation to:
    - a. prevention of money laundering; combating the financing of terrorism; and where applicable, the Proceeds of Crime Act.
    - b. investigation of suspected cheating,
    - c. combating of problem gambling, and
    - d. investigation of customer complaints.

Licence condition 3.1.2
Other networks
All remote casino, bingo, and betting licences (except ancillary remote and host licences)

1 Subject to 2 below, all licensees who provide facilities for gambling, other than peer to peer gaming, in circumstances in which they do not contract directly with all of the participants using those facilities ('network operators') must have, put into effect and monitor the effectiveness of policies and procedures designed to ensure that:

- **a** every participant using the facilities in Great Britain ('a domestic customer') is doing so pursuant to a contract entered into between that player and the network operator, or that player and another holder of a Gambling Commission remote operating licence of the same kind as that held by the network operator ('a relevant licence');
- **b** the arrangements between the network operator and any holder of a relevant licence through which domestic customers access their facilities, and with gambling operators not licensed by the Gambling Commission through which customers use their facilities outside Great Britain, provide in clear terms which operator is to be responsible for the handling of which categories of customer complaint and dispute; in particular such arrangements must provide how a dispute involving customers from more than one jurisdiction is to be handled;
- **c** the network operator's arrangements for the sharing of information both with any holder of a relevant licence and with gambling operators not licensed by the Gambling Commission through which participants use the facilities outside Great Britain are such as to enable all parties to discharge effectively their respective regulatory obligations, in particular in relation to:
  - **i** prevention of money laundering; combating the financing of terrorism; and where applicable, the Proceeds of Crime Act,
  - **ii** investigation of suspected cheating,
  - **iii** combating of problem gambling, and
  - **iv** investigation of customer complaints.

2 Paragraph **1** above does not apply to the provision to the holder of a non-remote bingo operating licence (H) of facilities for the playing of games of bingo organised by H in premises in respect of which a bingo premises licence has effect (eg the National Bingo Game).

Licence condition 3.1.3
Hosting
All casino (game host), bingo (game host), general betting (host) (real events) and general betting (host) (virtual events) licences

1 Subject to 2 below, all licensees who provide facilities for gambling in circumstances in which they do not contract directly with any of the participants using those facilities ('hosts') must ensure that:

- a every participant using the facilities in Great Britain ('a domestic customer') is doing so pursuant to a contract entered into between that player and the holder of a Gambling Commission remote casino, bingo, general betting (real events) or general betting (virtual events) operating licence ('a relevant licence');
- b the arrangements between the host and any holder of a relevant licence through which domestic customers access their facilities, and with gambling operators not licensed by the Gambling Commission through which customers use their facilities outside Great Britain, provide in clear terms which operator is to be responsible for the handling of which categories of customer complaint and dispute; in particular such arrangements must provide how a dispute involving customers from more than one jurisdiction is to be handled;
- c the host's arrangements for the sharing of information both with any holder of a relevant licence and with gambling operators not licensed by the Gambling Commission through which participants use the facilities outside Great Britain are such as to enable all parties to discharge effectively their respective regulatory obligations, in particular in relation to:
  - i prevention of money laundering; combating the financing of terrorism; and where applicable, the Proceeds of Crime Act,
  - ii investigation of suspected cheating,
  - iii combating of problem gambling, and
  - iv investigation of customer complaints.

2 Paragraph 1 above does not apply to the provision to the holder of a non-remote bingo operating licence (H) of facilities for the playing of games of bingo organised by H in premises in respect of which a bingo premises licence has effect (eg the National Bingo Game).

4 Protection of customer funds

4.1 Segregation of funds

Licence condition 4.1.1
Segregation of funds
All remote operating licences, except gaming machine technical, gambling software, host, ancillary remote bingo and ancillary remote casino licences

1 Licensees who hold customer funds must ensure that these are held in a separate client bank account or accounts.

2 In this condition 'customer funds' means the aggregate value of funds held to the credit of customers including, without limitation:
- a cleared funds deposited with the licensee by customers to provide stakes in, or to meet participation fees in respect of, future gambling,
- b winnings or prizes which the customer has chosen to leave on deposit with the licensee or for which the licensee has yet to account to the customer, and
- c any crystallised but as yet unpaid loyalty or other bonuses, in each case irrespective of whether the licensee is a party to the gambling contract.

4.2 Disclosure to customers

Licence condition 4.2.1
Disclosure to customers
All operating licences, except gaming machine technical, gambling software, host, ancillary, remote bingo, and ancillary remote casino licences

1 Licensees who hold customer funds must set out clearly in the terms and conditions under which they provide facilities for gambling information about whether customer funds are protected in the event of insolvency, the level of such protection and the method by which this is achieved.

2 Such information must be according to such rating system and in such form the Commission may from time to time specify. It must be provided in writing to each customer, in a manner which requires the customer to acknowledge receipt of the information and does not permit the customer to utilise the funds for gambling until they have done so, both on the first occasion on which the customer deposits funds and on the occasion of any subsequent deposit which is the first since a change in the licensee's terms in relation to protection of such funds.

3 In this condition 'customer funds' means the aggregate value of funds held to the credit of customers including, without limitation:
- a cleared funds deposited with the licensee by customers to provide stakes in, or to meet participation fees in respect of, future gambling;
- b winnings or prizes which the customer has chosen to leave on deposit with the licensee or for which the licensee has yet to account to the customer; and
- c any crystallised but as yet unpaid loyalty or other bonuses, in each case irrespective of whether the licensee is a party to the gambling contract.

5 Payment

5.1 Cash and cash equivalents, payment methods and services

Licence condition 5.1.1
Cash and cash equivalents
All operating licences except gaming machine technical, gambling software and host licences

1 Licensees, as part of their internal controls and financial accounting systems, must implement appropriate policies and procedures concerning the usage of cash and cash equivalents (eg bankers drafts, cheques and debit cards and digital currencies) by customers, designed to minimise the risk of crimes such as money laundering, to avoid the giving of illicit credit to customers and to provide assurance that gambling activities are being conducted in a manner which promotes the licensing objectives.

2 Licensees must ensure that such policies and procedures are implemented effectively, kept under review, and revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Gambling Commission from time to time.

Licence condition 5.1.2
Payment methods services
All remote casino, bingo and betting operating licences, except ancillary, host and remote betting intermediary (trading room only) licences

1 Licensees must only accept payment from customers using their gambling facilities in Great Britain by a method which involves the provision of payment services as defined in Schedule 1 Part 1 of the Payment Services Regulations 2009 (SI 2009 No 209) **if** the provider of those services is a 'payment service provider' within the definition of that term in regulation 2 of those Regulations.

6 Provision of credit by licensees and the use of credit cards

6.1 Provision of credit by licensees and the use of credit cards

Licence condition 6.1.1
Provision of credit
All gaming machine general operating licences for adult gaming centres and family entertainment centres

1 Licensees must neither:
- a provide credit themselves in connection with gambling; nor
- b participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling.

Licence condition 6.1.2
Use of credit cards
All non-remote general betting, pool betting and betting intermediary licences, and all remote licences (including ancillary remote betting and ancillary remote lottery licences) except gaming machine technical, gambling software and host licences

1 Licensees must not accept payment for gambling by credit card. This includes payments to the licensee made by credit card through a money service business.

7 General 'fair and open provisions'

7.1 Fair and transparent terms and practices

Licence condition 7.1.1
Fair and transparent terms and practices
All operating licences except gaming machine technical and gambling software licences

1 Licensees must ensure that the terms on which gambling is offered, and any consumer notices relating to gambling activity, are not unfair within the meaning of the Consumer Rights Act 2015. Licensees must comply with those terms.

2 The contractual terms on which gambling is offered and any consumer notices relating to gambling activity must be transparent within the meaning of the Consumer Rights Act 2015. The contractual terms on which gambling is offered must be made available to customers in an easily accessible way.

3 Licensees must ensure that changes to customer contract terms comply with the fairness and transparency requirements under the Consumer Rights Act 2015. Customers must be notified of material changes to terms before they come into effect.

4 Licensees must ensure that they do not commit any unfair commercial practices within the meaning of the Consumer Protection from Unfair Trading Regulations 2008, at any stage of their interactions with consumers.

8 Display of licensed status

8.1 Display of licensed status

Licence condition 8.1.1
Display of licensed status – remote operators
All remote casino, bingo and betting licences other than ancillary, host, remote betting intermediary (trading room only), remote general betting (limited) and remote general betting (standard) (remote platform) licences

1 Licensees providing facilities for remote gambling must display on every screen from which customers are able to access gambling facilities provided in reliance on this licence:
   a a statement that they are licensed and regulated by the Gambling Commission; and
   b a link (which will be supplied by the Commission) to their current licensed status as recorded on the Commission's website.

2 Such statement and link must be in the format, provided by the means, and contain the information from time to time specified by the Commission in its technical standards applicable to the kind of facilities for gambling provided in accordance with this licence or otherwise notified to licensees for the purposes of this condition.

3 Licensees may also display on screens accessible from Great Britain information about licences or other permissions they hold from regulators in, or by virtue of the laws of, jurisdictions outside Great Britain provided it is made plain on those screens that the licensee provides facilities for gambling to persons in Great Britain in reliance on their Gambling Commission licence(s).

Licence condition 8.1.2
Display of licensed status – B2B operators
All gaming machine technical, gambling software and host licences

1 Licensees offering the supply of gaming machines or gambling software on websites must:
   a display the following information on the first page of the website which offers gaming machines or gambling software in reliance on the licence:
      i a statement that they are licensed and regulated by the Gambling Commission;
      ii their licence number; and
      iii a link to the Commission's website.
   b display at least the information at a above on each page of the website which offers gaming machines or gambling software in reliance on the licence; and
   c where they offer on pages of, or by means of a link from, their website, the supply of gaming machines or gambling software which are not provided in reliance on their licence, clearly distinguish those products which are regulated by the Commission from those which are not.

9 Types and rules of casino and other games

9.1 Casino and bingo games

Licence condition 9.1.1
Rules of casino games
All non-remote casino operating licences

1 Licensees must not offer or permit to be played casino games that appear on any list of games prohibited by the Commission.

Licence condition 9.1.2
Prohibited bingo prize games
All non-remote bingo operating licences

1 Licensees must not offer or permit to be played prize gaming games that appear on any list of games prohibited by the Commission.

10 Tipping of casino employees

10.1 Tipping of casino employees

Licence condition 10.1.1
Tipping – personal licence holders
All non-remote casino operating licences

1 Licensees must only permit tipping of staff holding personal licences where a tronc system is operated; that is to say, where all tips are pooled and distributed amongst the employees concerned. A separate tronc may be operated for each of a number of categories of licensed staff.

11 Lotteries

11.1 Lotteries – societies and local authorities

Licence condition 11.1.1
Lotteries – societies and local authorities
All lottery operating licences issued to non-commercial societies or local authorities

1 Licensees must ensure that at least 20% of the proceeds of any lottery promoted in reliance on the licence are applied to a purpose for which the promoting non-commercial society is conducted or the promoting local authority has power to incur expenditure.

2 For the purposes of this condition:
- a the proceeds of any lottery promoted in reliance on this licence must not exceed £5,000,000 and subject to 11.1.1 2b, the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence must not exceed £50,000,000.
- b In 2020 the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year may not exceed £31,331,475.

3 The rules of any lottery promoted in reliance on this licence must be such as to ensure:
- a that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:
  - i £25,000
  - ii if more, 10% of the proceeds of the lottery.
- b that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).

4 A lottery promoted in reliance on this licence must not be linked to any other lottery, free draw or prize competition.

5 For the purposes of this condition:
- a two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all others, unless the maximum amount which a person can win is no more than £500,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.
- b a lottery is linked to a free draw or prize competition if:
  - i a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and
  - ii the arrangements for the lottery and/or the draw or competition are such that a person may win more than £500,000 in aggregate as a result of his participation in the lottery and the draw or competition.

6 If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £500,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

7 Licensees must ensure that each person who purchases a ticket in a lottery promoted on behalf of a non-commercial society in reliance on this licence receives a document which:
- a identifies the promoting society;
- b states the name and address of a member of the society who is designated, by

persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery; and

c either states the date of the draw (or each draw) in the lottery, or enables the date of the draw (or each draw) in the lottery to be determined.

8 Licensees must display 'licensed by the Gambling Commission' and details of the Gambling Commission website on lottery tickets.

9 The price payable for purchasing each ticket in a lottery promoted in reliance on this licence:

a must be the same;
b must be shown on the ticket or in a document received by the purchaser; and
c must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.

10 For the purposes of these conditions, reference to a person receiving a document includes a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to:

a retain the message electronically; or
b print it.

11 Licensees must lodge with the Commission a description of, and a copy of the rules of, any lottery intended to be promoted in reliance on this licence, and any amendment to the rules of a lottery previously notified to the Commission, at least 28 days before any tickets in such lottery, or amended lottery, are put on sale.

12 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. But, by way of exception, tickets may 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.

13 Accurate accounting records must be kept in relation to all lotteries promoted in reliance on this licence showing:

a the total proceeds of each lottery;
b the amount allocated to prizes in each lottery;
c the amount of proceeds allocated to expenses, and details of those expenses, for each lottery;
d the amount applied directly to the purposes of the society or purposes for which the local authority has power to incur expenditure as the case may be; and
e the number of sold and unsold tickets in each lottery.

14 Such records must be made available to the Commission for inspection on request and retained for at least three years from the date of any lottery to which they relate.

15 In addition, in respect of each lottery promoted in reliance on this licence, a lottery submission must be sent to the Commission within three months of the date of determination of the lottery or, in the case of an 'instant lottery', within three months of the last date on which tickets in the lottery were on sale providing the information set out in paragraph 13 above. Every such submission must contain or be accompanied by a declaration that the information given in it is correct and must be shown to have been approved before submission by:

a the holder of a personal management licence
b a 'qualified person' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006 or
c except where the licensee is a local authority, the designated person named on the lottery tickets as having responsibility for the promotion of the lottery.

16 Where a society or local authority instructs an External Lottery Manager to make the submission on their behalf, they must ensure that the details on the submission are verified and approved by one of the people named above from the relevant society or local authority.

17 For any calendar year in which the cumulative proceeds of lotteries promoted in reliance on this licence exceed £1,000,000 the licensee must provide the Commission with written confirmation from a qualifying auditor confirming that the proceeds of those lotteries have been fully accounted for in their annual audited accounts. Such confirmation must be provided within ten months of the date to which the accounts are made up.

18 A qualifying auditor means a person who is eligible for appointment as a statutory auditor under section 1212 Companies Act 2006 or any statutory modification or re-enactment thereof but, in the case of a lottery promoted by or on behalf of a non-commercial society, is not:

- a a member of the society
- b a partner, officer or employee of such a member or
- c a partnership of which a person falling within a or b is a partner.

11.2 Lotteries – managers

Licence condition 11.2.1
Lotteries - managers
All lottery operating licences issued to external lottery managers

1 Licensees must ensure that at least 20% of the proceeds of any lottery promoted in reliance on the licence are paid to the promoting non-commercial society or local authority to apply to a purpose for which the promoting society is conducted or the local authority has power to incur expenditure.

2 For the purposes of this condition:

- a the proceeds of any lottery promoted in reliance on this licence may not exceed £5,000,000 and subject to 11.2.1 2b, the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year on behalf of the same non-commercial society or local authority in reliance on the licence may not exceed £50,000,000.
- b In 2020 the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year on behalf of the same non-commercial society or local authority in reliance on the licence may not exceed £31,311,475.

3 The rules of any lottery promoted in reliance on this licence must be such as to ensure:

- a that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:
  - i £25,000
  - ii if more, 10% of the proceeds of the lottery
- b that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).

4 A lottery promoted in reliance on this licence must not be linked to any other lottery, free draw or prize competition.

5 For the purposes of this condition:

- a two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all others, unless the maximum amount which a person can win is no more than £500,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.

b a lottery is linked to a free draw or prize competition if
   i a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and
   ii the arrangements for the lottery and/or the draw or competition are such that a person may win more than £500,000 in aggregate as a result of his participation in the lottery and the draw or competition.

6 If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £500,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

7 Licensees must ensure that each person who purchases a ticket in a lottery promoted in reliance on this licence on behalf of a non-commercial society, receives a document which:
   a identifies the promoting society
   b states the name and address of a member of the society who is designated, by persons acting on behalf of the society, as having responsibility within the society for the promotion of the lottery
   c either states the date of the draw (or each draw) in the lottery, or enables the date of the draw (or each draw) in the lottery to be determined.

8 Licensees must display 'licensed by the Gambling Commission' and details of the Gambling Commission website on lottery tickets.

9 The price payable for purchasing each ticket in a lottery promoted in reliance on this licence:
   a must be the same
   b must be shown on the ticket or in a document received by the purchaser
   c must be paid to the promoter of the lottery before any person is given a ticket or any right in respect of membership of the class among whom prizes are to be allocated.

10 For the purposes of these conditions, reference to a person receiving a document includes a reference to a message being sent or displayed to him electronically in a manner which enables him, without incurring significant expense or delay, to:
   a retain the message electronically or
   b print it.

11 Licensees must lodge with the Commission a description of, and a copy of the rules of, any lottery intended to be promoted in reliance on this licence, and any amendment to the rules of a lottery previously notified to the Commission, at least 28 days before any tickets in such lottery, or amended lottery, are put on sale.

12 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. But, by way of exception, tickets may 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.

13 Licensees must have arrangements in place to ensure separation between lottery proceeds they hold on behalf of non-commercial societies or local authorities and their own trading income and that such lottery proceeds are legally protected by means of separate bank accounts having trustee status or equivalent legal protection for each society or local authority in the event of the licensee's insolvency, in which event the proceeds will be paid to the society or local authority.

14 Licensees must ensure that following the determination of a lottery all lottery proceeds are properly allocated between prizes, expenses and profits and have procedures in place designed to ensure that lottery profits belonging to non-commercial societies or local authorities whose lotteries they manage in reliance on this licence are accounted for in a timely manner to the society or local authority.

12 Anti-money laundering

12.1 Prevention of money laundering and terrorist financing

Licence condition 12.1.1
Anti-money laundering
Prevention of money laundering and terrorist financing
All operating licences except gaming machine technical and gambling software licences

1 Licensees must conduct an assessment of the risks of their business being used for money laundering and terrorist financing. Such risk assessment must be appropriate and must be reviewed as necessary in the light of any changes of circumstances, including the introduction of new products or technology, new methods of payment by customers, changes in the customer demographic or any other material changes, and in any event reviewed at least annually.

2 Following completion of and having regard to the risk assessment, and any review of the assessment, licensees must ensure they have appropriate policies, procedures and controls to prevent money laundering and terrorist financing.

3 Licensees must ensure that such policies, procedures and controls are implemented effectively, kept under review, revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Gambling Commission from time to time.

Licence condition 12.1.2
Anti-money laundering
Measures for operators based in foreign jurisdictions
All remote casino operating licences where any of the licensee's remote gambling equipment is located outside Great Britain

1 Licensees must comply with Parts 2 and 3 of the Money Laundering Regulations 2007 (UK Statutory Instrument No. 2157 of 2007) as amended by the Money Laundering (Amendment) Regulations 2007 (UK Statutory Instrument No. 3299 of 2007), or the equivalent requirements of any UK Statutory Instrument by which those regulations are amended or superseded insofar as they relate to casinos (the MLR) whether or not the MLR otherwise apply to their business.

13 Pool betting

13.1 Pool betting

Licence condition 13.1.1
Pool betting
All pool betting operating licences, except those restricted to football pools

1 Licensees must inform the Commission, within 14 days, in writing, of any person they authorise under section 93(2) of the Act to offer pool betting on a track in connection with a horserace or dog race in reliance on an occasional use notice. In doing so, they must include the terms and conditions under which this has been agreed, and provide contact details of the management and key staff of those that are authorised.

2 Licensees and any person they so authorise must produce and retain a record of the transactions relevant to each pool that they offer. The record must be capable of identifying individual bets into the pool and relating these to subsequent payment of winnings where applicable. Licensees must make this information available to the Commission on request.

Licence condition 13.1.2
Pool betting – football pools
All pool betting operating licences which authorise football pools

1 Licensees must inform the Commission, within 14 days, in writing, of any person they authorise under Section 93(3) of the Act in respect of football pool betting. In doing so, they must include the terms and conditions under which this has been agreed.

2 Licensees and any person they so authorise must produce and retain a record of the transactions relevant to each pool that they offer. The record must be capable of identifying individual bets into the pool and relating these to the subsequent payment of winnings where applicable. Licensees must make this information available to the Commission on request.

Licence condition 13.1.3
Pool betting – annual accounts
All pool betting operating licences

1 Licensees must produce annual accounts which should be certified by a qualified independent accountant. Licensees must make copies available to the Commission on request.

14 Access to premises

14.1 Access to premises

Licence condition 14.1.1
Access to premises
All operating licences

1 Licensees must have and put into effect policies and procedures (including staff training programmes) designed to ensure that their staff co-operate with the Commission's enforcement officers in the proper performance of their compliance functions and are made aware of those officers' rights of entry to premises contained in Part 15 of the Act.

15 Information requirements

15.1 Reporting suspicion of offences

Licence condition 15.1.1
Reporting suspicion of offences etc - non-betting licences
All operating licences except betting, betting intermediary, ancillary remote betting, betting host and remote betting intermediary (trading rooms only) licences

1 Licensees must as soon as reasonably practicable provide the Commission or ensure that the Commission is provided with any information that they know relates to or suspect may relate to the commission of an offence under the Act, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition.

Licence condition 15.1.2
Reporting suspicion of offences etc - betting licences
All betting operating licences including betting intermediary, ancillary remote betting, betting host and remote betting intermediary (trading rooms only) licences

1 Licensees must as soon as reasonably practicable provide the Commission or ensure the Commission is provided with any information from whatever source that they:
- a know relates to or suspect may relate to the commission of an offence under the Act, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition
- b suspect may lead the Commission to consider making an order to void a bet.

2 Licensees who accept bets, or facilitate the making or acceptance of bets between others, on the outcome of horse races or other sporting events governed by one of the sport governing bodies for the time being included in Part 3 of Schedule 6 to the Act must also provide the relevant sport governing body with sufficient information to conduct an effective investigation if the licensee suspects that they have any information from whatever source that may:
- a lead the Commission to consider making an order to void a bet
- b relate to a breach of a rule on betting applied by that sport governing body.

3 In 2b above, ‘rule on betting’ includes any rule about bets the making or acceptance of which would be a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000 (‘spread betting’).

15.2 Reporting key events and other reportable events

Licence condition 15.2.1
Reporting key events
All operating licences

A key event is an event that could have a significant impact on the nature or structure of a licensee's business. Licensees must notify the Commission, or ensure the Commission is notified, in such form or manner as the Commission may from time to time specify, of the occurrence of any of the following key events as soon as reasonably practicable and in any event within five working days of the licensee becoming aware of the event's occurrence[1].

Operator status

1 In the case of licensees which are companies, a petition being presented for their winding up or the winding up of any group company of theirs, or they or any group company being placed in administration or receivership or their directors proposing to creditors a composition in satisfaction of its debts or a scheme of arrangement of its affairs.

2 In the case of licensees which are bodies corporate, but not companies, any event substantially equivalent to those listed at 1 above.

3 In the case of a licensee who is an individual (or a partner in a partnership licensee) their being presented with a petition for their bankruptcy or sequestration or their entering into an individual voluntary arrangement.

Relevant persons and positions

4 In the case of licensees who are companies or other bodies corporate having a share capital, the name and address of any person who (whether or not already a shareholder or member) becomes a shareholder or member holding 3% or more of the issued share capital of the licensee or its holding company.

5 Any investment in a licensee which is not by way of subscription for shares.

6 The taking of any loan by the licensee, or by a group company who then makes an equivalent loan to the licensee, from any person not authorised by the Financial Conduct Authority: a copy of the loan agreement must be supplied.

7 The entering into an arrangement whereby a third party provides services to, or grants any licence concession or permission to, the licensee other than for full value: full details of the arrangements must be supplied.

8 The appointment of a person to, or a person ceasing to occupy, a 'key position': a 'key position' in relation to a licensee is:

- a in the case of a small-scale operator, a 'qualifying position' as defined in the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006
- b in the case of an operator which is not a small-scale operator, a 'specified management office' as set out in (current) LCCP licence condition 1.2
- c a position the holder of which is responsible for the licensee's anti-money laundering procedures, including suspicious activity reporting
- d any other position for the time being designated by the Commission as a 'key position'. (Notification is required whether or not the person concerned is required to hold a personal management licence and whether or not the event notified requires the licensee to apply for a variation to amend a detail of their licence.)

9 Any change to the structure or organisation of the licensee's business which affects a 'key position' or the responsibilities of its holder.

Financial events

10 Any material change in the licensee's banking arrangements, in particular the termination of such arrangements or a particular facility and whether by the licensee or the provider of the arrangements.

11 Any breach of a covenant given to a bank or other lender.

12 Any default by the licensee or, where the licensee is a body corporate, by a group company in making repayment of the whole or any part of a loan on its due date.

13 Any court judgments (in whatever jurisdiction) against the licensee or, where the licensee is a body corporate, a group company, remaining unpaid 14 days after the date of judgment.

14 Where the licensee is required to have their accounts independently audited, any qualification to an auditors' report; and any unplanned change of auditor including a change prompted by a dispute or resulting from auditors being unable or unwilling to sign an unqualified audit report.

15 Any change in the licensee's arrangements for the protection of customer funds in accordance with the general licence condition 4 relating to the protection of customer funds (where applicable).

16 Where the licensee holds customer funds in a separate bank account, any deficit on reconciliation of such bank account.

17 Any change in the licensee's arrangements as to the methods by which, and/or the payment processors through which, the licensee accepts payment from customers using their gambling facilities (this key event applies to remote casino, bingo and betting operating licences, except ancillary and remote betting intermediary (trading room only) licences).

Legal or regulatory proceedings or reports

18 The grant, withdrawal or refusal of any application for a licence or other permission made by the licensee, or in the case of a licensee which is a body corporate, any group company of theirs, to a gambling regulator in another jurisdiction. In the case of a withdrawal or refusal of the application, the licensee must also notify the reasons for such withdrawal or refusal. (This condition does not apply to applications for licences or other permissions to carry on activities which would fall outside the scope of a Gambling Commission operating licence if carried out in Britain or with customers in Great Britain.)

19a Any investigation by a professional, statutory, regulatory or government body (in whatever jurisdiction) into the licensee's activities, or the activities in relation to the licensed entity of a personal licence holder or a person occupying a qualifying position employed by them, where such an investigation could result in the imposition of a sanction or penalty which, if imposed, could reasonably be expected to raise doubts about the licensee's continued suitability to hold a Gambling Commission licence.

19b Any criminal investigation by a law enforcement agency in any jurisdiction in relation to which:

- the licensee is involved (including, but not limited to investigations of crimes allegedly committed against the licensee or involving the gambling facilities provided under the licence), AND
- the circumstances are such that the Commission might reasonably be expected to question whether the licensee's measures to keep crime out of gambling had failed.

Notification of the event must occur as soon as practicable after the licensee becomes aware of any such investigation in which the licensee is involved and measures may have failed.

20 The receipt of any report from a professional, statutory or other regulatory or government body (in whatever jurisdiction) of the outcome of a compliance assessment in relation to the gambling activity of the licensee or, where the licensee is a body corporate, of any group company in which at least one person who holds a key position in or in respect of the licensee holds a key position: a copy of the report should be provided where available to the licensee.

21 The referral to the licensee's Board, or persons performing the function of an audit or risk committee, of material concerns raised by a third party (such as an auditor) about the provision of facilities for gambling which are expressed (in whatever terms) as requiring attention as a high priority: a summary of the nature of the concerns must be provided.

22 The imposition by the licensee of a disciplinary sanction, including dismissal, against the holder of a personal licence or a person occupying a qualifying position for gross misconduct; or the resignation of a personal licence holder or person occupying a qualifying position following commencement of disciplinary proceedings in respect of gross misconduct against that person.

23 The commencement (in whatever jurisdiction) of any material litigation against the licensee or, where the licensee is a body corporate, a group company: the licensee must also notify the outcome of such litigation.

24 The making of a disclosure pursuant to section 330, 331, 332 or 338 of the Proceeds of Crime Act 2002 or section 19, 20, 21, 21ZA, 21ZB or 21A of the Terrorism Act 2000 (a suspicious activity report): the licensee should inform the Commission of the unique reference number issued by the United Kingdom Financial Intelligence Unit of the National Crime Agency in respect of each disclosure and for the purposes of this key event the five working day period referred to above runs from the licensee's receipt of the unique reference number. The licensee should also indicate whether the customer relationship has been discontinued at the time of the submission.

Gambling facilities

25a Any breach in the licensee's information security that adversely affects the confidentiality of customer data or prevents customers from accessing their accounts for longer than 24 hours.

25b Where a gaming system fault has resulted in under or overpayments to a player (this includes instances where a fault causes an incorrect prize/win value to be displayed).

26 Any change in the identity of the ADR entity or entities for the handling of customer disputes, as required by the social responsibility code provision on complaints and disputes.

27 The reference of a dispute to an ADR entity other than one in respect of which contact details were given in accordance with the social responsibility code provision on complaints and disputes; the reason for selection of that ADR entity should be given.

28 In the case of remote gambling, the commencement or cessation of trading on website domains *(including mobile sites or mobile device applications)* or broadcast media through which the licensee provides gambling facilities.

In this condition:
'body corporate' has the meaning ascribed to that term by section 1173 of the Companies Act 2006 or any statutory modification or re-enactment thereof

a in respect of a company, 'holding company' and 'subsidiary' have the meaning ascribed to that term by section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof

b a 'group company' is any subsidiary or holding company of the licensee and any subsidiary of such holding company.

[1] Key events can be reported securely online at the Commission's website through our eServices system www.gamblingcommission.gov.uk Alternatively, for operators unable to access this system, you can report a key event by email to: key.events@gamblingcommission.gov.uk
Alternatively, for operators unable to access this system, you can report a key event by email to: key.events@gamblingcommission.gov.uk

Licence condition 15.2.2
Other reportable events
All operating licences

1 Licensees must also notify the Commission in such form or manner as the Commission may from time to time specify, or ensure that the Commission is so notified, as soon as reasonably practicable of the occurrence of any of the following events[1]:
   - a the conclusion of a dispute referred to an ADR entity and in such case providing the Commission with a copy of the decision or note of the outcome[2].
   - b any outcome adverse to the licensee of any proceedings taken against the licensee (in whatever jurisdiction) by a customer in relation to a gambling transaction; but excluding proceedings allocated to the County Court small claims track or equivalent in jurisdictions outside England and Wales.
   - c their becoming aware that a group company which is not a Commission licensee is advertising remote gambling facilities to those residing in a jurisdiction in or to which it has not previously advertised or their becoming aware of a sustained or meaningful generation of the 3% / 10% threshold being exceeded by the group.

In this condition:
- a 'group company' has the same meaning as in condition 15.2.1; and
- b without prejudice to section 327 of the Act, 'advertising' includes: having a home page directed towards a jurisdiction and written in, or in one of, that jurisdiction's official language(s), having arrangements enabling that jurisdiction's currency to be selected for gambling or the use of payment methods available only in that jurisdiction, and providing a specific customer service facility referable to that jurisdiction.

[1] Events required to be notified to the Commission by 15.2.1 or 15.2.2 may be reported securely online at the Commission's website through our eServices system www.gamblingcommission.gov.uk or by email to: key.events@gamblingcommission.gov.uk

[2] In respect of the referral of disputes to an ADR entity the licensee's attention is drawn to social responsibility code provision **6**.

15.3 General and regulatory returns

Licence condition 15.3.1
General and regulatory returns
All operating licences

1 On request, licensees must provide the Commission with such information as the Commission may require about the use made of facilities provided in accordance with this licence, and the manner in which gambling authorised by this licence and the licensee's business in relation to that gambling are carried on, including in particular information about:
   - a the numbers of people making use of the facilities and the frequency of such use
   - b the range of gambling activities provided by the licensee and the numbers of staff employed in connection with them
   - c the licensee's policies in relation to, and experiences of, problem gambling.

2 In particular within 28 days of the end of each quarterly period or, for those only submitting annual returns, within 42 days of the end of each annual period, licensees must submit a Regulatory Return to the Commission containing such information as the Commission may from time to time require[1].

[1]Regulatory returns can be submitted securely online at the Commission's website through our eServices system available at www.gamblingcommission.gov.uk

16 Responsible placement of digital adverts

16.1 Responsible placement of digital adverts

Licence condition 16.1.1
Responsible placement of digital adverts
All licences

1 Licences must:

- **a** Ensure that they do not place digital advertisements on websites providing unauthorised access to copyrighted content;
- **b** take all reasonable steps to ensure that third parties with whom they contract for the provision of any aspect of their business related to the licensed activities do not place digital advertisements on websites providing unauthorised access to copyrighted content; and
- **c** ensure that the terms upon which they contract with such third parties enable them, subject to compliance with any dispute resolution provisions, to terminate the third party's contract promptly if, in the Licensee's reasonable opinion, the third party has been responsible for placing digital advertisements for the licensed activities on such websites.

17 Customer identity verification

17.1 Customer identity verification

Licence condition 17.1.1
Customer identity verification
All remote licences (including ancillary remote betting licences in respect of bets made or accepted by telephone or email), except any lottery licence the holder of which only provides facilities for participation in low frequency[2] or subscription lotteries, gaming machine technical, gambling software, host, ancillary remote casino, and ancillary remote bingo.

1 Licensees must obtain and verify information in order to establish the identity of a customer before that customer is permitted to gamble. Information must include, but is not restricted to, the customer's name, address and date of birth.

2 A request made by a customer to withdraw funds from their account must not result in a requirement for additional information to be supplied as a condition of withdrawal if the licensee could have reasonably requested that information earlier. This requirement does not prevent a licensee from seeking information on the customer which they must obtain at that time due to any other legal obligation.

3 Before permitting a customer to deposit funds, licensees should inform customers what types of identity documents or other information the licensee may need the customer to provide, the circumstances in which such information might be required, and the form and manner in which such information should be provided.

4 Licensees must take reasonable steps to ensure that the information they hold on a customer's identity remains accurate.

[2] A 'low frequency lottery' is one of a series of separate lotteries promoted on behalf of the same non-commercial society or local authority, or as part of the same multiple society lottery scheme, in respect of which there is a period of at least two days between each lottery draw.

Part II: Code of practice

Introduction

This is the Commission's principal code of practice, issued under section 24 of the Gambling Act 2005.

There are two types of code provisions in this document:

- social responsibility code provisions: compliance with these is a condition of licences; therefore any breach of them by an operator may lead the Commission to review the operator's licence with a view to suspension, revocation or the imposition of a financial penalty and would also expose the operator to the risk of prosecution; these provisions are set out in shaded boxes

- ordinary code provisions: these do not have the status of operator licence conditions but set out good practice. Operators may adopt alternative approaches to those set out in ordinary code provisions if they have actively taken account of the ordinary code provision and can demonstrate that an alternative approach is reasonable in the operator's particular circumstances; or that to take an alternative approach would be acting in a similarly effective manner. Ordinary codes of practice are admissible in evidence in criminal or civil proceedings and must be taken into account in any case in which the court or tribunal think them relevant, and by the Commission in the exercise of its functions; any departure from ordinary code provisions by an operator may be taken into account by the Commission on a licence review, but cannot lead to imposition of a financial penalty; these code provisions are in the unshaded boxes in this section.

Code provisions

1 General

1.1 Cooperation and responsibility for third parties

Ordinary Code Provision 1.1.1
Cooperation with the Commission
All licences

1 As made plain in its *Statement of principles for licensing and regulation*, the Commission expects licensees to conduct their gambling operations in a way that does not put the licensing objectives at risk, to work with the Commission in an open and cooperative way and to disclose anything which the Commission would reasonably need to be aware of in exercising its regulatory functions. This includes, in particular, anything that is likely to have a material impact on the licensee's business or on the licensee's ability to conduct licensed activities compliantly. Licensees should have this principle in mind in their approach to, and when considering their compliance with, their obligations under the conditions attached to their licence and in relation to the following provisions of this code.

Social responsibility code provision 1.1.2
Responsibility for third parties – all licences
All licences

1 Licensees are responsible for the actions of third parties with whom they contract for the provision of any aspect of the licensee's business related to the licensed activities.

2 Licensees must ensure that the terms on which they contract with such third parties:

a require the third party to conduct themselves in so far as they carry out activities on behalf of the licensee as if they were bound by the same licence conditions and subject to the same codes of practice as the licensee

b oblige the third party to provide such information to the licensee as they may reasonably require in order to enable the licensee to comply with their information reporting and other obligations to the Commission

c enable the licensee, subject to compliance with any dispute resolution provisions of such contract, to terminate the third party's contract promptly if, in the licensee's reasonable opinion, the third party is in breach of contract (including in particular terms included pursuant to this code provision) or has otherwise acted in a manner which is inconsistent with the licensing objectives, including for affiliates where they have breached a relevant advertising code of practice.

Social responsibility code provision 1.1.3
Responsibility for third parties - remote
All remote licences

1 Remote licensees must ensure in particular:
- **a** that third parties who provide user interfaces enabling customers to access their remote gambling facilities:
  - **i** include a term that any such user interface complies with the Commission's technical standards for remote gambling systems; and
  - **ii** enable them, subject to compliance with any dispute resolution provisions of such contract, to terminate the third party's contract promptly if, in the licensee's reasonable opinion, the third party is in breach of that term.

2 Financial requirements

2.1 Anti-money laundering

Ordinary code provision 2.1.1
Anti-money laundering - casino
All remote and non-remote casino licences

1 In order to help prevent activities related to money laundering and terrorist financing, licensees should act in accordance with the Commission's guidance on anti-money laundering, *The Prevention of Money Laundering and Combating the Financing of Terrorism - Guidance for remote and non-remote casinos*.

Ordinary code provision 2.1.2
Anti-money laundering – other than casino
All licences except casino licences

1 As part of their procedures for compliance with the requirements in respect to the prevention and detection of money laundering in the Proceeds of Crime Act 2002 and the Terrorism Act 2000, licensees should take into account the Commission's advice on the Proceeds of Crime Act 2002, *Duties and responsibilities under the Proceeds of Crime Act 2002 – Advice for operators (excluding casino operators).*

3 Protection of children and other vulnerable persons

3.1 Combating problem gambling

Social responsibility code provision 3.1.1
Combating problem gambling
All licences

1 Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling including the specific policies and procedures required by the provisions of section 3 of this code.

2 Licensees must make an annual financial contribution to one or more organisation(s) which are approved by the Gambling Commission, and which between them deliver or support research into the prevention and treatment of gambling-related harms, harm prevention approaches and treatment for those harmed by gambling.

3.2 Access to gambling by children and young persons

Social responsibility code provision 3.2.1
Access to gambling by children and young persons – casinos SR code
All non-remote casino licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.

2 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

3 Licensees must designate one or more supervisors for each casino entrance.

4 A supervisor's responsibilities include ensuring compliance with this section of the code.

5 A supervisor must implement the following procedures:
- **a** checking the age of customers who appear to be, or are suspected of being, underage
- **b** refusing entry to anyone unable to produce an acceptable form of identification, ie one which:
  - **i** contains a photograph from which the individual can be identified
  - **ii** states the individual's date of birth
  - **iii** is valid
  - **iv** is legible and shows no signs of tampering or reproduction
- **c** taking action when there are unlawful attempts to enter the premises, including removing anyone who appears to be underage and cannot produce an acceptable form of identification.

6 Licensees must not deliberately provide facilities for gambling in such a way as to appeal particularly to children or young people, for example by reflecting or being associated with youth culture.

7 In premises restricted to adults, service must be refused in any circumstances where any adult is accompanied by a child or young person.

8 Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover all relevant prohibitions against inviting children or young persons to gamble or to enter gambling premises, and the legal requirements on returning stakes and not paying prizes to underage customers.

9 Licensees must conduct test purchasing or take part in collective test purchasing programmes as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Ordinary code provision 3.2.2
Access to gambling by children and young persons – casinos ordinary code
All non-remote casino licences

1. There should be a sufficient number of supervisors at casino entrances to enable a considered judgement to be made about the age of everyone attempting to enter the casino and to take the appropriate action (for example checking identification) whilst at the same time not allowing others to enter unsupervised. The nature of this task means that it cannot be properly accomplished only by using CCTV; it will require a physical presence. Heavily used entrances may require more than one designated supervisor.
2. Supervisors may be assisted by other door keepers provided the supervisor retains the responsibility for compliance with this section of the code and deals personally with any case where there is any doubt or dispute as to someone's eligibility to enter.
3. The Commission considers acceptable forms of identification to include: any identification carrying the PASS logo (for example Citizencard or Validate); a military identification card; a driving licence (including provisional licence) with photocard; or a passport.
4. Licensees should put into effect procedures that require their staff to check the age of any customer who appears to them to be under 21.
5. Licensees should consider permanent exclusion from premises of any adult accompanied by a child or young person on more than one occasion to premises restricted to adults, or if there is reason to believe the offence was committed knowingly or recklessly.
6. Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.
7. In providing training to staff on their responsibilities for preventing underage gambling, licensees should have, as a minimum, policies for induction training and refresher training.

Social responsibility code provision 3.2.3
Access to gambling by children and young persons – AGC SR code
All adult gaming centre licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.

2 This must include procedures for:
- **a** checking the age of apparently underage customers
- **b** removing anyone who appears to be under age and cannot produce an acceptable form of identification
- **c** taking action when there are attempts by under-18s to enter the premises.

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

4 Licensees must not deliberately provide facilities for gambling in such a way as to appeal particularly to children or young people, for example by reflecting or being associated with youth culture.

5 In premises restricted to adults, service must be refused in any circumstances where any adult is accompanied by a child or young person.

6 Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover all relevant prohibitions against inviting children or young persons to gamble or to enter gambling premises, and the legal requirements on returning stakes and not paying prizes to underage customers.

7 Licensees must only accept identification which:
- **a** contains a photograph from which the individual can be identified
- **b** states the individual's date of birth
- **c** is valid
- **d** is legible and has no visible signs of tampering or reproduction.

8 Licensees in fee category C or higher must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Ordinary code provision 3.2.4
Access to gambling by children and young persons – AGC ordinary code
All adult gaming centre licences

1 The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (for example Citizencard or Validate); a military identification card; a driving licence (including a provisional licence) with photocard; or a passport.

2 Licensees should put into effect procedures that require their staff to check the age of any customer who appears to them to be under 21.

3 Licensees should consider permanent exclusion from premises for any adult accompanied by a child or young person on more than one occasion to premises restricted to adults, or if there is reason to believe the offence was committed knowingly or recklessly.

4 Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.

5 Licensees in fee categories A or B should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

6 In providing training to staff on their responsibilities for preventing underage gambling, licensees should have, as a minimum, policies for induction training and refresher training.

Social responsibility code provision 3.2.5
Access to gambling by children and young persons – bingo and FEC SR code
All non-remote bingo and family entertainment centre licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.

2 This must include procedures for:
- **a** checking the age of apparently underage customers
- **b** refusing entry to any adult-only areas to anyone unable to produce an acceptable form of identification
- **c** taking action when there are unlawful attempts to enter the adult-only areas.

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

4 Licensees must not permit children or young people to gamble in the adults-only areas of premises to which they have access. If there is a 'no under-18s' premises policy, licensees must pay particular attention to the procedures they use at the entrance to the premises to check customers' ages.

5 Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover:
- **a** all relevant prohibitions against inviting children or young persons to gamble on age-restricted products or to enter age-restricted areas;
- **b** the legal requirements on returning stakes and not paying prizes to underage customers; and
- **c** procedures for challenging any adult who may be complicit in allowing a child or young person to gamble.

6 Licensees must only accept identification which:
- **a** contains a photograph from which the individual can be identified
- **b** states the individual's date of birth
- **c** is valid
- **d** is legible and has no visible signs of tampering or reproduction.

7 Licensees in fee category C or higher must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Ordinary code provision 3.2.6
Access to gambling by children and young persons – bingo and FEC ordinary code
All non-remote bingo and family entertainment centre licences

1 The Commission considers acceptable forms of identification to include: any identification carrying the PASS logo (for example Citizencard or Validate); a military identification card; a driving licence (including a provisional licence) with photocard; or a passport.

2 Licensees should require a person who appears to relevant staff to be under the age of 21 to be asked to produce proof of age, either at the point of entry to the gambling area or as soon as it comes to the attention of staff that they wish to access gambling facilities.

3 Licensees should have procedures for dealing with cases where an adult knowingly or recklessly allows a child or young person to gamble. These procedures might include refusing to allow the adult to continue to gamble, removing them from the premises, and reporting the incident to the police or local authorities, or taking action where forged identification is produced.

4 Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on their premises, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling to the child or young person concerned.

5 Where it is likely that customers' young or otherwise vulnerable children will be left unattended on or adjacent to their premises, licensees should consider reminding customers of their parental responsibilities and assess whether there is a need to develop procedures for minimising the risk to such children.

6 Licensees in fee categories A or B should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

7 In providing training to staff on their responsibilities for preventing underage gambling, licensees should have, as a minimum, policies for induction training and refresher training.

Social responsibility code provision 3.2.7
Access to gambling by children and young persons – betting SR code
Paragraphs 1, 2 and 4-7: all non-remote betting and remote betting intermediary (trading rooms only) licences
Paragraph 3: all non-remote betting licences (except general betting (limited) licences) and remote betting intermediary (trading rooms only) licences
Paragraph 8: non-remote pool betting licences
Paragraph 9: non-remote general betting (standard) licences in fee category C or above

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.

2 This must include procedures for:
- **a** checking the age of apparently underage customers
- **b** removing from adult-only licensed premises anyone who appears to be underage and cannot produce an acceptable form of identification
- **c** taking action when there are attempts by under-18s to enter adult-only premises
- **d** refusing entry to any adult-only area of a track to anyone unable to produce an acceptable form of identification
- **e** taking action when there are unlawful attempts to enter the adult-only areas.

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises

4 Licensees must not deliberately provide facilities for gambling in such a way as to appeal particularly to children or, except in the case of football pools, young people, for example by reflecting or being associated with youth culture.

5 In premises restricted to adults, service must be refused in any circumstances where any adult is accompanied by a child or young person.

6 Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover all relevant prohibitions against inviting children or young persons to gamble or to enter gambling premises, and the legal requirements on returning stakes and not paying prizes to underage customers.

7 Licensees must only accept identification which:
- **a** contains a photograph from which the individual can be identified
- **b** states the individual's date of birth
- **c** is valid
- **d** is legible and has no visible signs of tampering or reproduction.

8 In the case of non-remote pool betting licensees, where pool entries or payments are collected door to door by the licensee or the licensee's authorised agent the licensee's procedures must include procedures for:
- **a** checking the age of apparently underage entrants to the pool; and
- **b** taking action when there are unlawful attempts to enter the pool.

9 Licensees must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Ordinary code provision 3.2.8
Access to gambling by children and young persons – betting ordinary code Paragraphs 1 to 5 inclusive: all non-remote betting and remote betting intermediary (trading rooms only) licences
Paragraph 6: all non-remote betting licences (except non-remote general betting (standard) licences in fee category C or above) and remote betting intermediary (trading rooms only) licences

1 The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (for example Citizencard or Validate); a military identification card; a driving licence (including a provisional licence) with photocard; or a passport.

2 Licensees should put into effect procedures that require their staff to check the age of any customer who appears to them to be under 21.

3 Licensees should consider permanent exclusion from premises for any adult accompanied by a child or young person on more than one occasion to premises restricted to adults, or if there is reason to believe the offence was committed knowingly or recklessly.

4 Procedures should be put into effect for dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.

5 In providing training to staff on their responsibilities for preventing underage gambling, licensees should have, as a minimum, policies for induction training and refresher training.

6 Licensees should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

Social responsibility code provision 3.2.9
Access to gambling by children and young persons – lottery SR code
All non-remote lottery licences

1 Licensees must have and put into effect policies and procedures designed to minimise the risk of lottery tickets being sold to children (that is, persons under 16). This must include procedures for:
- **a** checking the age of apparently underage purchasers of lottery tickets
- **b** taking action when there are unlawful attempts to purchase tickets.

2 Licensees must take all reasonable steps to ensure that all those engaged in the promotion of lotteries in reliance on the licence understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

Ordinary code provision 3.2.10
Access to gambling by children and young persons – lottery ordinary code
All non-remote lottery licences

1 Licensees should require a person who appears to be under the age of 16 to be asked to produce proof of identity and age before purchasing a ticket.

Social responsibility code provision 3.2.11
Access to gambling by children and young persons – remote SR code
All remote licences (including ancillary remote betting licences in respect of bets made or accepted by telephone or email), except lottery licences, gaming machine technical, gambling software, host, ancillary remote casino, and ancillary remote bingo licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 Such procedures must include:

- **a** Verifying the age of a customer before the customer is able to:
  - **i** deposit any funds into their account;
  - **ii** access any free-to-play versions of gambling games that the licensee may make available; or
  - **iii** gamble with the licensee using either their own money or any free bet or bonus.
- **b** warning potential customers that underage gambling is an offence;
- **c** regularly reviewing their age verification systems and implementing all reasonable improvements that may be made as technology advances and as information improves;
- **d** ensuring that relevant staff are properly trained in the use of their age verification procedures; in particular customer services staff must be appropriately trained in the use of secondary forms of identification when initial verification procedures fail to prove that an individual is of legal age; and
- **e** enabling their gambling websites to permit filtering software to be used by adults (such as parents or within schools) in order to restrict access to relevant pages of those sites.

Ordinary code provision 3.2.12
Access to gambling by children and young persons – remote ordinary code
All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

1 Licensees should, and should request their contracted partners to, draw attention to parental responsibility as part of the purchasing process of facilities such as mobile phones and interactive television.

Social responsibility code provision 3.2.13
Access to gambling by children and young persons – remote lottery SR code
All remote lottery licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 Such procedures must include:

- **a** warning potential customers that underage gambling is an offence;
- **b** requiring customers to affirm that they are of legal age;
- **c** regularly reviewing their age verification systems and implementing all reasonable improvements that may be made as technology advances and as information improves;
- **d** ensuring that relevant staff are properly trained in the use of their age verification procedures; in particular anyone who sells lottery tickets including canvassers and customer services staff must be appropriately trained in the use of secondary forms of identification when initial verifications procedures fail to prove that an individual is of legal age;
- **e** enabling their gambling websites to permit filtering software to be used by adults (such as parents or within schools) in order to restrict access to relevant pages of those sites;
- **f** the following age verification procedures:
  - **i** in the case of both subscription lotteries and low frequency lotteries[1], and provided it is clear in the terms and conditions that those under the age of 16 are not permitted to participate and that the prizes will not be paid out to those found to be under 16, customers must be required to verify their age before being able to make any subscription or purchase entry into the lottery. (The licensee is expected to conduct a programme of random checks of users who self-verify for compliance with age restrictions);
  - **ii** in every other case, licensees must verify the age of a customer before the customer is able to:
    - access any free-to-play versions of lotteries (for example instant win or digital scratchcard lotteries) that the licensee may make available; or
    - in any case, participate in a lottery.

[1]A 'low frequency lottery' is one of a series of separate lotteries promoted on behalf of the same non-commercial society or local authority, or as part of the same multiple society lottery scheme, in respect of which there is a period of at least two days between each lottery draw

Ordinary code provision 3.2.14
Access to gambling by children and young persons – remote lottery ordinary code
All remote society lottery licences

1 Where operators consider the lottery will be more likely to attract underage play – eg where the prize is of particular appeal to children (those under the age of 16) such as concert tickets, games consoles, large prizes - operators should ensure that age verification measures are appropriate to the risk of attempted underage play. In these circumstances it is unlikely that self-verification alone will be sufficient.

3.3 Gambling management tools and responsible gambling management information

Social responsibility code provision 3.3.1
Responsible gambling information
All licences, except gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino and remote betting (remote platform) licences

1 Licensees must make information readily available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling.

2 The information must cover:
- **a** any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
- **b** timers or other forms of reminders or 'reality checks' where available
- **c** self-exclusion options
- **d** information about the availability of further help or advice.

3 The information must be directed to all customers whether or not licensees also make available material which is directed specifically at customers who may be 'problem gamblers'.

4 For gambling premises, information must be available in all areas where gambling facilities are provided and adjacent to ATMs. Information must be displayed prominently using methods appropriate to the size and layout of the premises. These methods may include the use of posters, the provision of information on gambling products, or the use of screens or other facilities in the gambling premises. Information must also be available in a form that may be taken away and may also be made available through the use of links to be accessed online or using smart technology. Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly.

Ordinary code provision 3.3.2
Responsible gambling information – foreign languages
All licences, except gaming machine technical, gambling software, host, ancillary remote bingo and ancillary remote casino licences

1 Licensees who market their services in one or more foreign languages should make available in that, or those, foreign languages:
- **a** the information on how to gamble responsibly and access to help referred to above
- **b** the players' guides to any game, bet or lottery required to be made available to customers under provisions in this code
- **c** the summary of the contractual terms on which gambling is offered, which is required to be provided to customers as a condition of the licensee's operating licence.

Social responsibility code provision 3.3.3
Betting B2 - time and monetary thresholds
All non-remote betting licences

1 Licensees must ensure that any B2 machines that they make available for use require customers to make an active choice whether to set time and monetary thresholds for customer and staff alerts. Such thresholds must comply with any relevant requirements set out in the Commission's machine technical standards.

Social responsibility code provision 3.3.4
Remote time-out facility
All remote licences except: any remote lottery licence the holder of which does not provide facilities for participation in instant win lotteries, ancillary remote betting licences, remote betting (remote platform), gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading room only) licences

1 Licensees must offer a 'time out' facility for customers for the following durations:
- **a** 24 hours
- **b** one week
- **c** one month or
- **d** such other period as the customer may reasonably request, up to a maximum of 6 weeks.

3.4 Customer interaction

Social responsibility code provision 3.4.1
Customer interaction
All licences, except non-remote lottery, gaming machine technical, gambling software and host licences

1 Licensees must interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling. This must include:
- **a** identifying customers who may be at risk of or experiencing harms associated with gambling.
- **b** interacting with customers who may be at risk of or experiencing harms associated with gambling.
- **c** understanding the impact of the interaction on the customer, and the effectiveness of the Licensee's actions and approach.

2 Licensees must take into account the Commission's guidance on customer interaction.

Social responsibility code provision 3.4.2
Customer interaction – lotteries SR code
All lottery licences

1 Licensees who are non-commercial societies or external lottery managers must:

- **a** set an upper limit on the value of lottery tickets which may be sold to a person, whether as part of a single transaction or over a period of time, without customer interaction;
- **b** maintain records of all instances of customer interaction pursuant to (a) above and, in each case, whether purchase of tickets beyond the limits set was then permitted; and
- **c** ensure such records are made available to the Commission for inspection on request and retained for at least three years from the date of any lottery to which they relate.

3.5 Self-exclusion

Social responsibility code provision 3.5.1
Self-exclusion – non-remote and trading rooms SR code
All non-remote licences (except lottery, gaming machine technical and gambling software licences) and remote betting intermediary (trading rooms only) licences

1 Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.

2 Licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.

3 Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.

4 This covers any marketing material relating to gambling, or other activities that take place on the premises where gambling may take place. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.

5 Licensees must close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account. It is not sufficient merely to prevent an individual from withdrawing funds from their customer account whilst still accepting wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.

6 Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:

- **a** a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator);
- **b** photo identification (except where the Licensee can reasonably satisfy themselves that in the circumstances in which they provide facilities for gambling an alternative means of identification is at least as effective) and a signature;
- **c** staff training to ensure that staff are able to administer effectively the systems; and
- **d** the removal of those persons found in the gambling area or attempting to gamble from the premises.

7 Licensees must ensure that their procedures for preventing access to gambling by self-excluded individuals take account of the structure and layout of the gambling premises.

8 Licensees must, when administering the self-exclusion agreement, signpost the individual to counselling and support services.

Ordinary code provision 3.5.2
Self-exclusion – non-remote ordinary code
All non-remote licences and remote betting intermediary (trading rooms only) licences, but not gaming machine technical and gambling software licences

1. Self-exclusion procedures should require individuals to take positive action in order to self-exclude. This can be a signature on a self-exclusion form.
2. Individuals should be able to self-exclude without having to enter gambling premises.
3. Before an individual self-excludes, licensees should provide or make available sufficient information about what the consequences of self-exclusion are.
4. Licensees should take all reasonable steps to extend the self-exclusion to premises of the same type owned by the operator in the customer's local area. In setting the bounds of that area licensees may take into account the customer's address (if known to them), anything else known to them about the distance the customer ordinarily travels to gamble and any specific request the customer may make.
5. Licensees should encourage the customer to consider extending their self-exclusion to other licensees' gambling premises in the customer's local area.
6. Customers should be given the opportunity to discuss self-exclusion in private, where possible.
7. Licensees should take steps to ensure that:
    a. the minimum self-exclusion period offered is of a duration of not less than 6 nor more than 12 months
    b. any self-exclusion may, on request, be extended for one or more further periods of at least 6 months each
    c. a customer who has decided to enter a self-exclusion agreement is given the opportunity to do so immediately without any cooling-off period. However, if the customer wishes to consider the self-exclusion further (for example to discuss with problem gambling groups), the customer may return at a later date to enter into self-exclusion
    d. at the end of the period chosen by the customer, the self-exclusion remains in place for a further 6 months, unless the customer takes positive action in order to gamble again
    e. where a customer chooses not to renew the self-exclusion, and makes a positive request to begin gambling again during the 6 month period following the end of their initial self-exclusion, the customer is given one day to cool off before being allowed access to gambling facilities. The contact must be made via telephone or in person
    f. notwithstanding the expiry of the period of self-exclusion chosen by a customer, no marketing material should be sent to them unless and until they have asked for or agreed to accept such material.
8. The licensee should retain the records relating to a self-exclusion agreement at least for the length of the self-exclusion agreement plus a further 6 months.
9. Please note that the Commission does not require the licensee to carry out any particular assessment or make any judgement as to whether the previously self-excluded individual should again be permitted access to gambling. The requirement to take positive action in person or over the phone is purely to a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and b) implement the one day cooling-off period and explain why this has been put in place.
10. Licensees should have, and put into effect, policies and procedures which recognise, seek to guard against and otherwise address, the fact that some individuals who have self-excluded might attempt to breach their exclusion without entering a gambling premises, for example, by getting another to gamble on their behalf.

11 Licensees should have effective systems in place to inform all venue staff of self-excluded individuals who have recently attempted to breach a self-exclusion in that venue, and the licensees neighbouring venues.

12 In providing training to staff on their responsibilities for self-exclusion, licensees should have, as a minimum, policies for induction training and refresher training.

Social responsibility code 3.5.3
Self-exclusion – remote SR code
All remote licences except: gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino, betting intermediary (trading room only) and remote betting (standard) (remote platform) licences

Paragraph 8 does not apply to ancillary remote betting licences, remote general betting (limited), or any remote lottery licence the holder of which does not provide facilities for participation in instant win lotteries

1 Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.

2 Licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.

3 Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.

4 This covers any marketing material relating to gambling. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.

5 Licensees must close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account. It is not sufficient merely to prevent an individual from withdrawing funds from their customer account whilst still accepting wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.

6 Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:
- **a** a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator);
- **b** a record of the card numbers to be excluded;
- **c** staff training to ensure that staff are able to administer effectively the systems; and
- **d** the removal of access from those persons found to have gambled or who have attempted to gamble on the facilities.

7 Licensees must when administering the self-exclusion signpost the individual to counselling and support services.

8 Customers must be given the opportunity to self-exclude by contacting customer services and in addition by entering an automated process using remote communication. In order to avoid inadvertent self-exclusion it is acceptable for an automated process to include an additional step that requires the customer to confirm that they wish to self-exclude. The licensee must ensure that all staff who are involved in direct customer service are aware of the self-exclusion system in place, and are able to direct that individual to an immediate point of contact with whom/which to complete that process.

Ordinary code provision 3.5.4
Self-exclusion – remote ordinary code
All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino, remote betting intermediary (trading rooms only) and remote betting (standard) (remote platform) licences

1 Self-exclusion procedures should require individuals to take positive action in order to self-exclude:
   a over the **internet**; this can be a box that must be ticked in order to indicate that they understand the system
   b by **telephone**; this can be a direct question asking whether they understand the system.

2 Before an individual self-excludes, licensees should provide or make available sufficient information about what the consequences of self-exclusion are.

3 Licensees should encourage the customer to consider extending their self-exclusion to other remote gambling operators currently used by the customer.

4 Within the licensee's information about self-exclusion policies, the licensee should provide a statement to explain that software is available to prevent an individual computer from accessing gambling internet sites. The licensee should provide a link to a site where further information is available.

5 Licensees should take all reasonable steps to ensure that:
   a the minimum self-exclusion period offered is of a duration of not less than 6 nor more than 12 months;
   b any self-exclusion may, on request, be extended for one or more further periods of at least 6 months;
   c the self-exclusion arrangements give customers the option of selecting a self-exclusion period of up to at least five years;
   d a customer who has decided to enter a self-exclusion agreement is given the opportunity to do so immediately without any cooling-off period. However, if the customer wishes to consider the self-exclusion further (for example to discuss with problem gambling groups) the customer may return at a later date to enter into self-exclusion;
   e at the end of the period chosen by the customer, self-exclusion remains in place, for a minimum of 7 years, unless the customer takes positive action to gamble again;
   f where a customer chooses not to renew, and makes a positive request to begin gambling again, during the 7 year period following the end of their initial self-exclusion, the customer is given one day to cool off before being allowed to access gambling facilities. Contact must be made via phone or in person; re-registering online is not sufficient; and
   g notwithstanding the expiry of the period of self-exclusion chosen by a customer, no marketing material should be sent to them unless and until they have asked for or agreed to accept such material.

6 The licensee should retain the records relating to a self-exclusion agreement for as long as is needed to enable the self-exclusion procedures set out in paragraph 5 above to be implemented.

7 Please note that the Commission does not require the licensee to carry out any particular assessment or make any judgement as to whether the previously self-excluded individual should again be permitted access to gambling. The requirement to take positive action in person or over the phone is purely to a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and b) implement the one day cooling-off period and explain why this has been put in place.

8 In providing training to staff on their responsibilities for self-exclusion, licensees should have, as a minimum, policies for induction training and refresher training.

Social responsibility code provision 3.5.5
Self-exclusion – remote multi-operator SR code
All remote licences except: any remote lottery licence the holder of which does not provide facilities for participation in instant win lotteries, ancillary remote betting, remote general betting (remote platform), remote betting intermediary (trading room only), remote general betting (limited), gaming machine technical, gambling software, host, ancillary remote bingo, and ancillary remote casino licences

1 Licensees must participate in the national multi-operator self-exclusion scheme.

Social responsibility code provision 3.5.6
Self-exclusion – multi-operator non-remote SR code
All non-remote casino, bingo and betting licences (except in respect of the provision of facilities for betting in reliance on a track premises licence) and holders of gaming machine general operating licences for adult gaming centres

1 Licensees must offer customers with whom they enter into a self-exclusion agreement in respect of facilities for any kind of gambling offered by them at licensed gambling premises the ability to self-exclude from facilities for the same kind of gambling offered in their locality by any other holder of an operating licence to whom this provision applies, by participating in one or more available multi-operator self-exclusion schemes.

Ordinary code provision 3.5.7
Self-exclusion – multi-operator non-remote ordinary code
All non-remote casino, bingo and betting licences (except in respect of the provision of facilities for betting in reliance on a track premises licence) and holders of gaming machine general operating licences for adult gaming centres

1 Licensees should contribute to and participate in the development and effective implementation of multi-operator self-exclusions schemes with the aim of making available to customers the ability to self-exclude from facilities for gambling provided by other licensed operators within their local area(s).

Social responsibility code provision 3.5.8
Self-exclusion – non-remote lottery SR code
All non-remote lottery licences

1 Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.

2 Licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.

3 Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.

4 This covers any marketing material relating to gambling, or other activities that take place on the premises where gambling may take place. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.

5 Licensees must close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account. It is not sufficient merely to prevent an individual from withdrawing funds from their customer account whilst still accepting wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.

6 Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:
- **a** a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator);
- **b** a facility for someone self-excluding to provide a signature; and
- **c** staff training to ensure that staff are able to administer effectively the systems.

7 Licensees must, when administering the self-exclusion agreement, signpost the individual to counselling and support services.

3.6 Employment of children and young persons

Ordinary code provision 3.6.1
Employment of children and young people – lottery and pool betting
All lottery licences and pool betting licences restricted to football pools

1 Licensees who employ young persons (16 and 17 year olds) to sell tickets, collect payments or pay out winnings should have and put into effect policies and procedures designed to ensure that all staff, including staff who are young persons themselves, are made aware that the law prohibits underage gambling, and that tickets may only be sold to persons aged 16 or over.

Ordinary code provision 3.6.2
Employment of children and young people – bingo
All non-remote bingo licences

1 Licensees who employ children under (under-16-year-olds) and young persons (those aged 16 or 17) should be aware that it is an offence:
- a to employ them to provide facilities for playing bingo;
- b for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine; and
- c to employ a child to perform any function on premises where, and at time when, facilities are being provided for playing bingo.

2 As to 1b, it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

3 Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:
- a children and young persons are never asked to perform tasks within 1a or 1b, above
- b all staff, including those who are children and young persons themselves, are instructed about the laws relating to access to gambling by children and young persons.

4 Licensees should consider adopting a policy that:
- a children are not employed to work on bingo licensed premises at any time when the premises are open for business
- b neither children nor young persons are in any event asked to work in areas where gaming machines are situated.

Ordinary code provision 3.6.3
Employment of children and young people – casino
All non-remote casino licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:
   - **a** to employ them to provide facilities for gambling;
   - **b** if gaming machines are sited on the premises, for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine at any time; and
   - **c** to employ them to carry out any other function on casino licensed premises while any gambling activity is being carried on in reliance on the premises licence (except that they can be employed on a part of regional casino premises when that part of the premises is not being used for the provision of facilities for gambling).

2 As to **1b**, it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

3 Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:
   - **a** children and young persons are never asked to perform tasks within 1a or 1b above
   - **b** all staff, including those who are children or young persons themselves, are instructed about the laws relating to access to gambling by children and young persons.

4 Licensees should consider adopting a policy that:
   - **a** children and young persons are not employed to work on casino licensed premises (other than in an area of a regional casino where gambling does not take place) at any time when the premises are open for business
   - **b** gaming machines are turned off if children and young persons are working on the premises outside the hours when the premises are open for business.

Ordinary code provision 3.6.4
Employment of children and young people – betting
All non-remote general, pool betting, and remote betting intermediary (trading rooms only) licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:
   - **a** to employ children to provide facilities for gambling in connection with football pools;
   - **b** otherwise to employ children and young persons to provide facilities for gambling;
   - **c** if gaming machines are sited on the premises, for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine at any time; and
   - **d** to employ them to carry out any other function on betting licensed premises while any gambling activity is being carried on in reliance on the premises licence.

2 As to **1c**, it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

3 Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:
   - **a** children are never asked to perform tasks within **1a** above
   - **b** children and young persons are never asked to perform tasks within **1b** above
   - **c** all staff, including those who are children or young persons themselves, are instructed about the laws relating to access to gambling by children and young persons.

4 Licensees should consider adopting a policy that:
   - **a** children and young persons are not employed to work on betting licensed premised at any time when the premised are open for business
   - **b** gaming machines are turned off if children and young persons are working on the premises outside the hours when the premises are open for business.

Ordinary code provision 3.6.5
Employment of children and young people – AGCs
All adult gaming centre licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:
   - **a** to employ them to provide facilities for gambling;
   - **b** if gaming machines are sited on the premises, for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine at any time; and
   - **c** to employ them to carry out any other function on adult gaming centre licensed premises while any gambling activity is being carried on in reliance on the premises licence.

2 As to **1b**, it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

3 Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:
   - **a** children and young persons are never asked to perform tasks within **1a or 1b**, above
   - **b** all staff, including those who are children or young persons themselves, are instructed about the laws relating to access to gambling by children and young persons.

4 Licensees should consider adopting a policy that:
   - **a** children and young persons are not employed to work on adult gaming centre licensed premises at any time when the premises are open for business
   - **b** gaming machines are turned off if children and young persons are working on the premises outside the hours when the premises are open for business.

Ordinary code provision 3.6.6
Employment of children and young people – FECs
All family entertainment centre licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:
   a to employ them to provide facilities for gambling; and
   b if gaming machines are sited on the premises, for their contracts of employment to require them, or for them to be permitted, to perform a function in connection with a gaming machine at any time.

2 As to 1b, it should be noted that in the Commission's view the relevant provision of the Act applies to any function performed in connection with a gaming machine. This includes servicing or cleaning such a machine.

3 Accordingly, licensees should have and put into effect policies and procedures designed to ensure that:
   a children and young persons are never asked to perform tasks within 1a or 1b, above; and
   b all staff, including those who are children or young persons themselves, are instructed about the laws relating to access to gambling by children and young persons.

4 Licensees should consider adopting a policy that:
   a children and young persons are not employed to carry out any work in an adult-only area of family entertainment licensed premises at a time when any gambling is taking place; and
   b gaming machines sited in adult-only areas are turned off if children and young persons are working on the premises outside the hours when the premises are open for business.

Ordinary code provision 3.6.7
Employment of children and young people – remote
All remote licences, except remote lottery, remote pool betting, remote gaming machine technical, remote gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence to employ them to provide facilities for gambling.

Ordinary code provision 3.6.8
Employment of children and young people – remote pool betting
All remote pool betting licences

1 Licensees who employ children (under-16-year-olds) and young persons (those aged 16 and 17) should be aware that it is an offence:
   a to employ children to provide facilities for gambling on connection with football pools; and
   b otherwise to employ children and young people to provide facilities for gambling.

3.7 Provision of credit

Social responsibility code provision 3.7.1
Provision of credit
All non-remote general betting licences (except where betting is offered under a 2005 Act casino premises licence), pool betting licences and all remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, host, ancillary remote casino, ancillary remote bingo and remote betting intermediary (trading rooms only) licences

1 Licensees who choose to offer credit to members of the public who are not themselves gambling operators must also:

- **a** have procedures for checking and scoring applications for credit from such customers, for setting, and for the increase of, credit limits
- **b** explain these procedures to customers
- **c** set a maximum credit limit for each customer and not permit customers to exceed that limit without further application
- **d** apply a 24-hour delay between receiving a request for an increase in a credit limit and granting it in those cases where the limit exceeds that which the operator previously set
- **e** not require a minimum spend within a set time period
- **f** take all reasonable steps to ensure that offers of credit are not sent to vulnerable persons, including those who have self-excluded from gambling
- **g** ensure that information about an offer of credit includes a risk warning of what may happen in the event of default.

3.8 Money lending between customers

Ordinary code provision 3.8.1
Money-lending - casinos
All non-remote casino licences

1 Licensees should take steps to prevent systematic or organised money lending between customers on their premises.

2 While the nature of those steps will depend to some extent on the layout and size of the premises, they should cover matters such as:

- **a** systems for monitoring for such activity;
- **b** instructions to staff concerning what they should do if they spot what they believe to be significant money lending and to managers about the ways in which they should handle and act on any such lending; and
- **c** excluding from the premises, either temporarily or permanently as appropriate, any person whom the evidence suggests has become involved in organised or systematic money lending.

3 There should be appropriate arrangements in place to cover any cases where it appears that the lending may be commercial in nature or may involve money laundering. In the latter case, the requirements in respect of reporting suspicious transactions must be followed. In all cases where the operator encounters systematic or organised money lending, a report should be made to the Commission.

Ordinary code provision 3.8.2
Money-lending – other than casinos
All non-remote bingo, general betting, adult gaming centre, family entertainment centre and remote betting intermediary (trading rooms only) licences

1 Licensees should seek to prevent systematic or organised money lending between customers on their premises. As a minimum, they should have arrangements in place to ensure staff are requested to report any instances of substantial money lending when they become aware of them.

3.9 Identification of individual customers

Social responsibility code 3.9.1
Identification of individual customers - remote
All remote licences (including ancillary remote betting licences) except gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

1 Licensees must have and put into effect policies and procedures designed to identify separate accounts which are held by the same individual.

2 Where licensees allow customers to hold more than one account with them, the licensee must have and put into effect procedures which enable them to relate each of a customer's such accounts to each of the others and ensure that:

- **a** if a customer opts to self-exclude they are effectively excluded from all gambling with the licensee unless they make it clear that their request relates only to some forms of gambling or gambling using only some of the accounts they hold with the licensee;
- **b** all of a customer's accounts are monitored and decisions that trigger customer interaction are based on the observed behaviour and transactions across all the accounts;
- **c** where credit is offered or allowed the maximum credit limit is applied on an aggregate basis across all accounts; and
- **d** individual financial limits can be implemented across all of a customer's accounts.

3 Licensees which are companies or other bodies corporate must take all reasonable steps to comply with the above provision as if reference to a customer holding more than one account with them included a reference to a customer holding one or more accounts with them and one or more accounts with a group company.

4 A company is a 'group company' in relation to a licensee if it is the holding company of, subsidiary of, or shares a common holding company with, the licensee. For these purposes 'holding company' and 'subsidiary' have the meanings ascribed to them by section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof.

4 'Fair and open' provisions

4.1 Fair terms

Social responsibility code provision 4.1.1
Fair terms
All licences, except gaming machine technical and gambling software licences

1 Licensees must be able to provide evidence to the Commission, if required, showing how they satisfied themselves that their terms are not unfair.

4.2 Display of rules and supervision of games

Social responsibility code provision 4.2.1
Display of rules - casino
All non-remote casino licences

1 In complying with any condition on a casino premises licence requiring the display of rules about gaming, licensees must ensure that the following are included:
- **a** the rules of each type of casino game available to be played
- **b** a player's guide to the house edge
- **c** a player's guide to the rules of any equal chance games which are made available.

Social responsibility code provision 4.2.2
Display of rules - bingo
All non-remote bingo licences

1 In complying with any condition on a bingo premises licence or a 2005 Act large casino premises licence requiring the display of rules about gaming, licensees must ensure that the following are included:
- **a** rules about each variant of bingo made available; and
- **b** rules about any prize gaming made available.

Social responsibility code provision 4.2.3
Display of rules – remote SR code
All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

1 Licensees must make the following available to customers:
- **a** a player's guide to each gambling opportunity (bet, game or lottery) made available by the operator; and
- **b** such additional information relating to the available gambling as the Commission shall from time to time publish to licensees: the current requirements are set out in the Commission's *Remote gambling and software technical standards.*

Ordinary code provision 4.2.4
Display of rules - remote ordinary code
All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading rooms only) licences

1 Where practicable, the player's guide and additional information referred to in the social responsibility code 4.2.3 should be made available through the medium in which the remote gambling is to be conducted. Where that is not practicable, licensees should either:
- a send a copy of the guide and required additional information by post, fax or email; or
- b make these available to the customer in another medium to which he has access.

Social responsibility code provision 4.2.5
Supervision of games
All non-remote casino licences

1 Licensees must have and put into effect policies and procedures designed to ensure that proper supervision of gaming at tables is carried out by supervisors, pit bosses and croupiers in order to ensure the integrity of the gaming is not compromised. Such policies and procedures must take into account, but need not be limited by, any mandatory premises licence conditions relating to the layout of premises.

Social responsibility code provision 4.2.6
Display of rules – betting
All general betting and betting intermediary licences, except remote betting intermediary (trading rooms only) licences

1 Licensees must set out within the full rules that they make available, the core elements for the acceptance and settlement of bets. These rules must cover:
- **a** the circumstances under which the operator will void a bet;
- **b** treatment of errors, late bets and related contingencies;
- **c** availability of odds for any ante-post, early show or starting price betting, and treatment of place, forecast bets etc;
- **d** treatment of withdrawals, non-runners, and reformed markets;
- **e** maximum payout limiting liability for a specific betting product or generally;
- **f** any charges made to customers for the use of betting services or products, and how these are calculated (including deductions from winnings for commission, or in respect of withdrawn horses etc);
- **g** means or medium by which the outcome of an event will be determined;
- **h** the rules for the event itself to be specified (eg horserace bets only to be accepted; where the racing is subject to British Horseracing Authority rules);
- **i** where bets are accepted on 'pari-mutuel' terms; and
- **j** any special arrangements for settling bets on 'coupled' horses.

2 Where special rules have been agreed in relation to a particular bet these must not be overridden by any conflicting rules or subsequent rule changes.

3 Licensees must issue a betting slip or an electronic acknowledgement (other than in the case of telephone betting) for each transaction which includes information as to the operator's name and contact details, and words equivalent to 'Bets are accepted in accordance with the operator's rules'.

Social responsibility code 4.2.7
Display of rules – on-course betting
All non-remote general betting licences

1 When providing facilities for betting on-course, licensees must display on their 'joints' in an intelligible format:
- **a** any rules that differ from the relevant racecourse rules on betting, such as Tattersalls' 'Rules on Betting'[1];
- **b** any types of unorthodox bets accepted (such as forecast betting, betting without the favourite, distance betting etc);
- **c** whether win-only or each way bets are accepted;
- **d** any concessions or bonuses offered;
- **e** all of the runners and the odds available to the public;
- **f** the operator's trading name;
- **g** the minimum bet accepted; and
- **h** any applicable maximum payout.

2 Licensees operating within the ring at horserace tracks2 must issue customers with a betting slip or ticket for each transaction accepted. Betting slips or tickets must include the following information:
- **a** operator's name and contact details;
- **b** race day name or code, date and race number;
- **c** name and/or number of the selection;
- **d** the stake, odds and potential return or whether the bet will be settled according to Starting Price; and
- **e** the type of bet.

3 Any special rules which have been agreed in relation to a particular bet must not be overridden by any conflicting rules or subsequent rule changes.

[1] The references to Tattersalls' 'Rules on Betting' reflect the current position and may need to be amended in future
[2] Licensees operating under the provision of an occasional use notice (eg point-to-points) must ensure ledger systems are capable of providing the information listed here.

Ordinary code provision 4.2.8
Betting integrity
All betting operating licences, including betting intermediary, ancillary remote betting and remote betting intermediary (trading rooms only) licences

1 Where licensees offer to accept bets, or facilitate the making or acceptance of bets between others, on the outcome of a sport regulated by a sport governing body for the time being included in Part 3 of Schedule 6 of the Act, they should take all reasonable steps to familiarise themselves with the rules applied by that body on betting, in particular betting by registered participants.

2 Licensees should ensure that a condition of their accepting bets is that for a bet to be valid, customers placing such bets must not be in breach of any rules about irregular and/or suspicious betting or misuse of inside information relevant to a sports governing body, other professional body of which they are a member, or their employers. Where a breach of these rules is identified, licensees should then take steps to void the bet.

Social responsibility code provision 4.2.9
Display of rules – pool betting
All pool betting licences

1 Licensees or any person they authorise to offer pool betting on their behalf under authority of section 93 of the Act must publish their rules relevant to the following:
- **a** the deduction levels for overheads, taxes, profits etc, expressed as a percentage, from each available pool;
- **b** the rounding of winning dividends to a whole unit;
- **c** the procedure for when there is no winner of the pool, and the circumstances in which the pool is carried over; and
- **d** the period of time in which a winning bet may be claimed from the pool operator.

Social responsibility code provision 4.2.10
Pool betting
All non-remote pool betting licences

1 Licensees or any person they authorise to offer pool betting on their behalf under authority of section 93 of the Act, must only accept bets through equipment capable of communicating bets to a central recording system.

2 The equipment must supply the person placing the bet with a betting slip or ticket containing the following information:
- **a** the date on which the bet is made;
- **b** the amount of the stake;
- **c** the identity of the track, the number or time of the race and the pool in respect of which the bet is made;
- **d** the selection or selections or combination of selections as indicated; and
- **e** means of identifying the equipment recording the bet.

3 The central recording system must collect all bets made to each of the operator's pools and all information required to calculate the winnings of each pool and be capable of storing this information for subsequent retrieval if required by the Commission.

4 Licensees and any person they authorise to offer pool betting on their behalf under authority of section 93 of the Act must:
- **a** provide a public display system within sight of all of the operator's terminals capable of accepting pool bets situated on-course. The system must display the potential dividend returns in respect of win and place outcomes from each pool operated, and in at least one place the units staked on all types of combination bets offered. This information is to be updated whilst the pool market is open. Following conclusion of the event to which the pool relates, the total amount payable as winning dividends must be displayed as soon as practicable; and
- **b** display prominently the minimum stake that will be accepted as a bet.

4.3 Additional consumer information

Social responsibility code provision 4.3.1
Publication of percentage of lottery proceeds returned to the purposes of the society or local authority
All lottery operating licences issued to non-commercial societies and local authorities

1 Each year, licensees must publish details on the percentage of the total proceeds of lotteries promoted in the previous calendar year in reliance on this licence applied to purposes for which the society is conducted, or purposes for which the local authority has power to incur expenditure. This should be through either their annual report, lottery page of their society website or any other means appropriate to the size and scale of the organisation.

Social responsibility code provision 4.3.2
Marketing of all lotteries conducted under a single brand (branded lotteries)
All lottery operating licences issued to non-commercial societies, local authorities and external lottery managers

1 Where a number of society lotteries are promoted under one brand (also known as a branded lottery[1]), whether with an ELM or not, licensees must ensure that it is clear to consumers (or potential consumers), which society lotteries are being promoted.

2 The requirement in (1) must be made clear to consumers within any marketing communications, advertisements, promotions or any information surrounding the draw, winners and beneficiaries; and through any ticket documentation.

[1] a scheme whereby multiple societies promote lotteries under a common brand name or image, either on rotation with other societies or as a regular occurrence for that single society.

Social responsibility code provision 4.3.3
Lotteries – Information to consumers
All lottery operating licences issued to non-commercial societies, local authorities and external lottery managers

1 Licensees must ensure that clear, transparent, and easily accessible information is made available to consumers to enable them to make an informed choice prior to participating in a lottery. This must include but is not restricted to details of how proceeds are used, the likelihood of winning a prize and how prizes are allocated.

2 Licensees must take into account the Commission's guidance on information to lottery players.

5 Marketing

5.1 Rewards and bonuses

Social responsibility code provision 5.1.1
Rewards and bonuses – SR code
All licences (including ancillary remote licences), except gaming machine technical and gambling software licences

1 If a licensee makes available to any customer or potential customer any incentive or reward scheme or other arrangement under which the customer may receive money, goods, services or any other advantage (including the discharge in whole or in part of any liability of his) ('the benefit') the scheme must be designed to operate, and be operated, in such a way that:

- **a** the circumstances in which, and conditions subject to which, the benefit is available are clearly set out and readily accessible to the customers to whom it is offered;
- **b** neither the receipt nor the value or amount of the benefit is:
  - **i** dependent on the customer gambling for a pre-determined length of time or with a pre-determined frequency; or
  - **ii** altered or increased if the qualifying activity or spend is reached within a shorter time than the whole period over which the benefit is offered.
- **c** if the value of the benefit increases with the amount the customer spends it does so at a rate no greater than that at which the amount spent increases; and further that:
- **d** if the benefit comprises free or subsidised travel or accommodation which facilitates the customer's attendance at particular licensed premises the terms on which it is offered are not directly related to the level of the customer's prospective gambling.

Ordinary code provision 5.1.2
Proportionate rewards
All licences (including ancillary remote licences), except gaming machine technical and gambling software licences

1 Licensees should only offer incentive or reward schemes in which the benefit available is proportionate to the type and level of customers' gambling.

Social responsibility code provision 5.1.3
Alcoholic drinks
All non-remote bingo and casino licences

1 If licensees offer customers free or discounted alcoholic drinks for consumption on the premises they must do so on terms which do not in any way link the availability of such drinks to whether, or when, the customer begins, or continues, to gamble.

2 Licensees must not make unsolicited offers of free alcoholic drinks for immediate consumption by customers at a time when they are participating in gambling activities.

Social responsibility code provision 5.1.4
Promotion by agents
All non-remote casino licences

1 Where a licensee employs agents to promote its business (wherever that business is conducted), it must ensure that its agreement with any agent makes clear that the agent must not encourage players to play longer or wager more than the player might otherwise do. In particular, payments should not be directly dependent upon, nor directly calculated by reference to, the length of time for which, or frequency with which, the customer gambles. If the payment to the agent increases with the amount the customer spends it must do so at a rate no greater than that at which the amount spent increases.

Ordinary code provision 5.1.5
Mailing of lottery tickets
All lottery licences

1 With a view to minimising the risk of fraud, licensees who are non-commercial societies or external lottery managers should adopt one or more of the following measures:

- **a** prohibit the unsolicited mailing of tickets to non-members of the promoting society
- **b** limit the value of tickets sent to any one address which is not that of a member of the promoting society to £20
- **c** maintain records of tickets distributed and not returned.

Social responsibility code provision 5.1.6
Compliance with advertising codes
All licences, except lottery licences

1 All marketing of gambling products and services must be undertaken in a socially responsible manner.

2 In particular, Licensees must comply with the advertising codes of practice issued by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) as applicable. For media not explicitly covered, licensees should have regard to the principles included in these codes of practice as if they were explicitly covered.

3 The restriction on allowing people who are, or seem to be, under 25 years old (ie: those in the 18-24 age bracket) to appear in marketing communications need not be applied in the case of non-remote point of sale advertising material, provided that the images used depict the sporting or other activity that may be gambled on and not the activity of gambling itself and do not breach any other aspect of the advertising codes.

Social responsibility code provision 5.1.7
Compliance with advertising codes (lotteries)
All lottery licences

1 All marketing of gambling products and services must be undertaken in a socially responsible manner.

2 In particular, Licensees must comply with the advertising codes of practice issued by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) as applicable. For media not explicitly covered, licensees should have regard to the principles included in these codes of practice as if they were explicitly covered.

Ordinary code provision 5.1.8
Compliance with industry advertising codes
All licences

1 Licensees should follow any relevant industry code on advertising, notably the Gambling Industry Code for Socially Responsible Advertising.

Social responsibility code provision 5.1.9
Other marketing requirements
All licences

1 Licensees must ensure that their marketing communications, advertisement, and invitations to purchase (within the meaning of the Consumer Protection from Unfair Trading Regulations 2008) do not amount to or involve misleading actions or misleading omissions within the meaning of those Regulations.

2 Licensees must ensure that all significant conditions which apply to marketing incentives are provided transparently and prominently to consumers. Licensees must present the significant conditions at the point of sale for any promotion, and on any advertising in any medium for that marketing incentive except where, in relation to the latter, limitations of space make this impossible. In such a case, information about the significant conditions must be included to the extent that it is possible to do so, the advertising must clearly indicate that significant conditions apply and where the advertisement is online, the significant conditions must be displayed in full no further than one click away.

3 The terms and conditions of each marketing incentive must be made available for the full duration of the promotion.

Ordinary code provision 5.1.10
Online marketing in proximity to information on responsible gambling
All licences

1 Licensees should ensure that no advertising or other marketing information, whether relating to specific offers or to gambling generally, appears on any primary web page/screen, or micro site that provides advice or information on responsible gambling

Social Responsibility code provision 5.1.11
Direct electronic marketing consent
All licences

1 Unless expressly permitted by law consumers must not be contacted with direct electronic marketing without their informed and specific consent. Whenever a consumer is contacted the consumer must be provided with an opportunity to withdraw consent. If consent is withdrawn the licensee must, as soon as practicable, ensure the consumer is not contacted with electronic marketing thereafter unless the consumer consents again. Licensees must be able to provide evidence which establishes that consent.

6 Complaints and disputes

6.1 Complaints and disputes

Social responsibility code provision 6.1.1
Complaints and disputes
All licences (including ancillary remote licensees) except gaming machine technical and gambling software licences

1 Licensees must put into effect appropriate policies and procedures for accepting and handling customer complaints and disputes in a timely, fair, open and transparent manner.

2 Licensees must ensure that they have arrangements in place for customers to be able to refer any dispute to an ADR entity in a timely manner if not resolved to the customer's satisfaction by use of their complaints procedure within eight weeks of receiving the complaint, and where the customer cooperates with the complaints process in a timely manner.

3 The services of any such ADR entity must be free of charge to the customer.

4 Licensees must not use or introduce terms which restrict, or purport to restrict, the customer's right to bring proceedings against the licensee in any court of competent jurisdiction. Such terms may, however, provide for a resolution of a dispute agreed by the customer (arrived at with the assistance of the ADR entity) to be binding on both parties.

5 Licensees' complaints handling policies and procedures must include procedures to provide customers with clear and accessible information on how to make a complaint, the complaint procedures, timescales for responding, and escalation procedures.

6 Licensees must ensure that complaints policies and procedures are implemented effectively, kept under review and revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidance published by the Gambling Commission from time to time.

7 Licensees should keep records of customer complaints and disputes in such manner as the Commission may from time to time specify in advice or guidance. They must provide information to the Commission about customer complaints, disputes, the outcomes of disputes referred to ADR, and court proceedings adverse to the licensee, also in such manner as the Commission may from time to time specify.

In this Code, 'ADR entity' means

a a person offering alternative dispute resolution services whose name appears on the list maintained by the Gambling Commission in accordance with The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 and,

b whose name appears on the list of providers that meet the Gambling Commission's additional standards found in the document 'Alternative dispute resolution (ADR) in the gambling industry – standards and guidance for ADR providers'.

Both lists are on the Commission's website and will be updated from time to time.

7 Gambling licensees' staff

7.1 Gambling licensees' staff

Social responsibility code provision 7.1.1
Gambling staff – casinos
All non-remote casino licences

1 Licensees must have and put into effect policies and procedures to manage relationships between staff and customers, based on the principle that in carrying out their duties staff must not engage in any conduct which is, or could be, likely to prejudice the licensing objectives.

Social responsibility code provision 7.1.2
Responsible gambling information for staff
All licences, including betting ancillary remote licences, but not other ancillary remote licences

1 Licensees must take all reasonable steps to ensure that staff involved in the provision of facilities for gambling are made aware of advice on socially responsible gambling and of where to get confidential advice should their gambling become hard to control.

Ordinary code provision 7.1.3
Gambling staff and irregular betting
All betting operating licences

1 Licensees should have employment policies that:
- require employees to report any indicators of irregular and/or suspicious betting to their employer; and
- prohibit their employees from using information related to irregular and/or suspicious betting for the purpose of placing their own wagers, either with their employer or with other operators.

8 Information requirements

8.1 Information requirements

Ordinary code provision 8.1.1
Information requirements – ordinary code
All licences

1 As stated earlier in this code, the Commission expects licensees to work with the Commission in an open and cooperative way and to inform the Commission of any matters that the Commission would reasonably need to be aware of in exercising its regulatory functions. These include in particular matters that will have a material impact on the licensee's business or on the licensee's ability to conduct licensed activities compliantly and consistently with the licensing objectives.

2 Thus, licensees should notify the Commission, or ensure that the Commission is notified, as soon as reasonably practicable and in such form and manner as the Commission may from time to time specify[1], of any matters which in their view could have a material impact on their business or affect compliance. The Commission would, in particular, expect to be notified of the occurrence of any of the following events in so far as not already notified in accordance with the conditions attached to the licensee's licence[2]:

- a any material change in the licensee's structure or the operation of its business
- b any material change in managerial responsibilities or governance arrangements
- c any report from an internal or external auditor expressing, or giving rise to, concerns about material shortcomings in the management control or oversight of any aspect of the licensee's business related to the provision of gambling facilities.

[1] These matters can be reported securely online at the Commission's website through our eServices system www.gamblingcommission.gov.uk
Alternatively, for operators unable to access this system, you can these events by email to: key.events@gamblingcommission.gov.uk

[2] Events which ***must*** be reported, because the Commission considers them likely to have a material impact on the nature or structure of a licensee's business, are set out in general licence condition 15.2.1

Ordinary code provision 8.1.2
Provision of information in respect of cheating
All betting operating licences including betting intermediary, ancillary remote betting and remote betting intermediary (trading room only)

1 In considering their obligations under licence condition **15.1.2** licensees should in particular keep in mind the scope of the offence of cheating. The Commission would expect to be notified of any information a licensee has which causes them to know or suspect that there has been interference or attempted interference with:

- a an event which has taken or is taking place in Great Britain on which bets have been or are likely to be or to have been placed (whether in Great Britain or elsewhere); or
- b an event which has taken or is taking place outside Great Britain on which bets have been or are likely to be or to have been placed in Great Britain.

9 Gaming machines in gambling premises

9.1 Gaming machines in gambling premises

Social responsibility code provision 9.1.1
Gaming machines in gambling premises – betting
All non-remote general betting operating licences, except where betting is offered under a 2005 Act casino premises licence

1 Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.

2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.

3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting facilities.

Social responsibility code provision 9.1.2
Gaming machines in gambling premises – bingo
All non-remote bingo operating licences

1 Gaming machines may be made available for use in licensed bingo premises only where there are also substantive facilities for non-remote bingo, provided in reliance on this licence, available in the premises.
2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing bingo facilities.

Social responsibility code provision 9.1.3
Gaming machines in gambling premises – casino
All non-remote casino operating licences, except 2005 Act operating licences

1 Gaming machines may be made available for use in licensed casino premises only where there are also substantive facilities for non-remote casino games and/or games of equal chance, provided in reliance on this licence, available in the premises.
2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing facilities for casino games and/or games of equal chance.

10 Assessing local risk

10.1 Assessing local risk

Social responsibility code provision 10.1.1
Assessing local risk
All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

1 Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy[1]**.**

2 Licensees must review (and update as necessary) their local risk assessments:

- **a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- **b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- **c** when applying for a variation of a premises licence; and
- **d** in any case, undertake a local risk assessment when applying for a new premises licence.

[1]This is the statement of licensing policy under the Gambling Act 2005.

Ordinary code provision 10.1.2
Sharing local risk assessments
All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences

1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

Part III

Suite of general conditions to be attached to personal licences under Section 75 of the Gambling Act 2005

Personal licence conditions
All personal licence holders

1 Personal licence holders must take all reasonable steps to ensure that the way in which they carry out their responsibilities in relation to licensed activities does not place the holder of the operating or any relevant premises licence in breach of their licence conditions.

2 Personal licence holders must keep themselves informed of developments in gambling legislation, codes of practice and any Commission guidance (whether issued on the Commission's website or communicated directly to licence holders) relevant to their role. Holders of personal functional licences must keep their technical competence in respect of their licensed activities up to date.

3 Personal licence holders must notify the Commission of the occurrence of any of the following key events within five working days, or as soon as reasonable practicable after the licensee becomes aware of the event's occurrence[1]:

- **a** their subjection to any criminal investigation which is listed under Schedule 7 Relevant Offences of the Gambling Act 2005;
- **b** their conviction of any offence listed under Schedule 7 – Relevant Offences of the Gambling Act 2005;
- **c** any current or pending investigation by a professional, statutory, regulatory or government body in Great Britain or abroad;
- **d** the imposition of any sanction or penalty against them following an investigation by any professional, statutory, regulatory or government body in Great Britain or abroad;
- **e** the imposition of a disciplinary sanction against them, including dismissal, for gross misconduct;
- **f** their resignation from a position for which a personal licence is required following commencement of disciplinary proceedings in respect of gross misconduct;
- **g** their disqualification from acting as a company director;
- **h** the presentation of a petition for their bankruptcy or sequestration or their entering into an individual voluntary agreement;
- **i** a change in their name or address.

[1] These matters can be reported securely online at the Commission's website through our eServices system www.gamblingcommission.gov.uk
Alternatively, for operators unable to access this system, you can these events by email to: key.events@gamblingcommission.gov.uk

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GAMBLING COMMISSION

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Guidance to licensing authorities

About this Guidance

This Guidance is the Gambling Commission's (the Commission) statutory Guidance to Licensing Authorities (Guidance) issued under s.25 of the Gambling Act 2005 (the Act), which requires the Commission to issue guidance on the manner in which local authorities are to exercise their functions under the Act.

This Guidance has a particular role and significance in the context of the principles that must be applied by licensing authorities when exercising their functions in relation to Part 8 of the Act, including premises licensing. That is because s.153 of the Act provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it:

a. in accordance with any relevant code of practice under s. 24
b. in accordance with any relevant guidance issued by the Commission under s. 25
c. reasonably consistent with the licensing objectives (subject to a and b above), and
d. in accordance with the statement published by the authority under s. 349 (statement of licensing policy) (subject to paragraphs a to c above).

So, in carrying out its functions under the Act, a licensing authority must have regard to this Guidance (s.153(b)).

To avoid duplication, the Guidance should be read in conjunction with the Act and explanatory notes, relevant secondary legislation and the Gambling Commission's *Licence Conditions and Codes of Practice* (LCCP). The Commission's website provides links to relevant legislation and regulations.

The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions. It does not seek to impose a 'one size fits all' model across all licensing authorities. We recognise that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation.

This Guidance does not, therefore, attempt to fetter the discretion that licensing authorities have under the Act and it is not intended to replace their judgement in individual cases. Moreover, this Guidance cannot anticipate every set of circumstances that may arise and, as long as it has been understood and taken into account, licensing authorities may depart from it where they consider it would be right to do so. There should, however, be strong reasons for departing from this Guidance and these need to be clearly expressed and explained if a licensing authority is to avoid judicial review or challenge on appeal for failing to take this Guidance into account.

In the interests of conciseness, this Guidance attempts to focus on issues relating specifically to gambling regulation and to avoid replicating advice on issues that apply more widely to local authorities, for example managing conflicts of interest.

Licensing authorities should note that interpretation of the Act is ultimately a matter for the Courts. This Guidance is not a substitute for licensing authorities' own legal advice on the application and interpretation of the Act.

Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation

Introduction

1.1 When the Gambling Act 2005[1] (the Act) came into force in late 2007, it brought in a new, comprehensive system for gambling regulation in Great Britain. For the first time, the vast majority of commercial gambling was brought together into a single regulatory framework. The Act established a dedicated regulator, at a national level, in the form of the Gambling Commission (the Commission). But it also recognised the potential local impact and importance of gambling. So it created many local regulators, whose job it is to manage gambling locally, in line with local circumstances. Those regulators are the 380 licensing authorities of England, Wales and Scotland. In doing so, the Act established a strong element of local decision-making and accountability in gambling regulation.

1.2 The Act gives local regulators very broad discretion to manage local gambling provision, including discretion as to the level of fees set to cover the cost of administering the local system of regulation. It sets out some boundaries to that discretion, consistent with the recognition of gambling as a mainstream leisure activity.

1.3 The Act also provides scope for the Commission to act to set an overall direction at national level, while leaving licensing authorities in the lead locally, with appropriate support from the Commission. This Guidance to Licensing Authorities (Guidance), to which licensing authorities must have regard, is an important part of those arrangements.

Partnership working between the Commission and licensing authorities – shared regulation

1.4 The Commission works in partnership with licensing authorities to regulate gambling. In doing so, the Commission will tend to focus on operators and issues of national or regional significance, and licensing authorities will take the lead on regulating gambling locally. The Commission and licensing authorities may work directly together on particular issues, for example where it may establish a precedent or help build capacity and learning to be rolled out more widely.

1.5 The Commission draws on, and shares, the intelligence and insights of its regulatory partners, in particular licensing authorities, who may well be better positioned to identify emerging risks to the licensing objectives or instances of illegality which can start at a local level. By working closely together we are able to prevent such risks growing into a more widespread problem and to ensure that both Commission and licensing authority resources are used efficiently.

1.6 In the Commission's view, the statutory duty to aim to permit gambling, subject to reasonable consistency with the licensing objectives, is best delivered through partnership working between industry and regulator, including licensing authorities. Licensing authorities should aim to work with local businesses to reduce the risk to the licensing objectives to acceptable levels. The Act does not envisage regulation by either the Commission or licensing authorities being aimed at preventing legitimate gambling.

[1] 2005 c.19 Gambling Act 2005

1.7 Further, the Commission was not established, and is not resourced, to lead on local gambling regulation. Licensing authorities have the power to collect fees, subject to statutory maxima, to cover the costs of local gambling regulation. In addition, local regulation is more cost effective and licensing authorities are better placed to understand and manage local issues. So, while the Commission aims to adopt a position of support and assistance for licensing authorities in carrying out their functions, that is in the context of licensing authorities taking the lead on local regulation of gambling.

1.8 This is reflected in the Commission's approach to representations on premises licence applications. Neither licensing authorities nor operators should take the absence of a specific representation on particular application as indicating the Commission's approval of that application. However, exceptionally, where an application for a premises licence, or the operation of a current premises licence, raises matters of wider or national significance, the Commission will consider making representations or requesting a licence review. The Commission may also comment on an application if it has particular observations about an operator. The Commission will aim to work with the relevant licensing authority in formulating any representation it wishes to make.

1.9 In many instances, effective outcomes will depend on close co-operation and communication between the Commission and licensing authorities. Ultimately, however, the responsibility for every licensing decision rests with the licensing authority itself, in line with the principle of local accountability.

Co-ordination and contact

1.10 To facilitate co-operation, the Commission has established a Local Authority Liaison Unit. The Unit is available to advise licensing authorities on matters relating to gambling regulation. It coordinates a series of activities designed to promote more effective gambling regulation, for example workshops and training sessions for licensing authorities, regular up-to-date advice and support such as a series of 'quick guides' on specific subjects. The Commission also publishes a monthly 'LA Bulletin', which aims to provide licensing authorities with up-to-date information on gambling and its regulation, and to share good practice. The Unit can be contacted using the general contact email info@gamblingcommission.gov.uk.

1.11 The Commission also has in place a small network of field-based staff. An important part of their role is to facilitate effective working relationships between the Commission and licensing authorities.

1.12 As well as working directly with individual licensing authorities, the Commission seeks to engage frequently with representative bodies such as the Local Government Association (LGA), the Convention of Scottish Local Authorities (COSLA), the Welsh Local Government Association (WLGA), the Society of Local Authority Lawyers and Administrators (SOLAR), and the Institute of Licensing (IoL). These meetings provide opportunities to review regulatory policy and to discuss emerging trends and issues of concern.

1.13 Since the Act was introduced a great deal of collective experience and insight has been developed, enabling licensing authorities and the Commission to fulfil their roles within the shared regulatory system more effectively and efficiently. Case studies available on the Commission's website provide examples of successful multi-agency initiatives undertaken by the Commission and its regulatory partners.

Primary legislation

1.14 The primary legislation governing gambling in Great Britain is the Act. It covers England, Wales and Scotland, but not Northern Ireland, which has its own arrangements.

1.15 The overall approach of the Act is to state that gambling is unlawful in Great Britain, unless permitted by:

- the measures contained in the Act, in relation to most commercial gambling
- the measures contained in the National Lottery etc Act 1993, in the case of the National Lottery
- the measures contained in the Financial Services and Markets Act 2000, in the case of spread betting.

This approach should be considered in the context of the statutory aim to permit gambling, as set out at paragraph 1.19 below.

1.16 The Act establishes two comprehensive offences: providing facilities for gambling or using premises for gambling without the appropriate permission. Such permission may come from a licence, permit, or registration granted in accordance with the Act or from an exemption given by the Act. Where authority to provide facilities for gambling is granted, it is subject to varying degrees of regulation, depending on the type of gambling, the means by which it is conducted, and the people by whom and to whom it is offered.

1.17 The Act is designed, as far as possible, to be flexible and future-proof. In practice, this means that in many areas the Act sets a framework, with more detailed rules set out in regulations made under the Act. A comprehensive list of regulations can be found on the Commission's website.

1.18 In addition, the Gambling (Licensing and Advertising) Act 2014[2] came into force on 1 November 2014 and amends the Act. It requires gambling operators that transact with or advertise to British consumers to obtain a licence from the Commission. The Act (as amended) has implications for remote operators and does not impact the powers or authority of licensing authorities. For further information, please refer to the Commission guidance on implementing the Gambling (Licensing and Advertising) Act.

Statutory aim to permit gambling

1.19 The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the licensing objectives. The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.

The licensing objectives

1.20 The three licensing objectives (s.1 of the Act) which guide the way that the Commission and licensing authorities perform their functions and the way that gambling businesses carry on their activities, 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.

[2] 2014 c.17 Gambling (Licensing and Advertising) Act 2014

Codes of practice

1.21 The Commission has the power to issue two types of code of practice. The first is a social responsibility (SR) code. A SR code must be followed and has the force of a licence condition. The Commission may also issue ordinary codes (OC) which are intended to set out industry best practice. They are not mandatory but operators are expected to follow them unless they have alternative arrangements in place that they can demonstrate are equally effective. Both codes are set out in the Commission's *Licence Conditions and Codes of Practice* (LCCP) or as Gambling codes of practice - consolidated for all forms of gambling.

1.22 S.153 of the Act requires licensing authorities, in exercising their functions, to have regard to the Code of Practice.

Licensing authority discretion (s.153 of the Act)

1.23 Licensing authorities have a broad discretion to regulate local provision of gambling and the Act gives wide-ranging powers to do so. Those include the power:

- to issue a statement of licensing policy, setting expectations about how gambling will be regulated in a particular area
- to grant, refuse and attach conditions to premises licences
- to review premises licences and attach conditions or revoke them as a result.

1.24 In exercising its functions under the Act, s.153 states that the licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it:

a. in accordance with any relevant code of practice under s.24
b. in accordance with any relevant guidance issued by the Commission under s.25
c. reasonably consistent with the licensing objectives (subject to a. and b. above), and
d. in accordance with the licensing authority's statement of licensing policy (statement of policy) (subject to a. to c. above).

1.25 The 'aim to permit' framework provides wide scope for licensing authorities to impose conditions on a premises licence, reject, review or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant Guidance issued by the Commission, the licensing objectives or the licensing authorities own statement of policy.

1.26 Licence conditions are one method by which it is possible to mitigate risks associated with particular premises. The imposition of licence conditions might be prompted by local risk to the licensing objectives, for example the proximity of gambling premises to a school.

1.27 However, licensing authorities may first wish to have proactive engagement with local operators to encourage them to effectively mitigate risks to the licensing objectives. Such engagement can facilitate an open and constructive partnership which, in turn, can improve compliance and reduce regulatory costs.

1.28 To reflect the breadth of licensing authority discretion, licensing authorities are entitled to request such information from operators as they may require in order to make effective licensing decisions. The Act requires that an application must be accompanied by a minimum level of information (detailed in Part 7 of this Guidance). In the Commission's view, however, this does not preclude reasonable requests from licensing authorities for additional information to satisfy themselves that their licensing decision is reasonably consistent with the licensing objectives and the Commission's codes. That information may include, for example, a suitable business plan or the operator's own assessment of risk to the licensing objectives locally.

Local risk assessments

1.29 To improve the exchange of information between licensing authorities and operators, the Commission has introduced SR code provisions to the LCCP that require operators of premises-based businesses to conduct local risk assessments (SR 10.1.1), and an ordinary code provision that says licensees should share their risk assessments with licensing authorities in certain circumstances (OC 10.1.2).

Statement of licensing policy

1.30 The statement of licensing policy (statement of policy) is a very important part of the architecture of local gambling regulation and it is expected that licensing authorities will use it to set out the local issues, priorities and risks that inform and underpin its approach to local regulation.

1.31 It provides the opportunity for licensing authorities to agree and set out how gambling is to be managed in different parts of the local authority area to deal with local risks and issues. It provides clarity of expectation for licensees and prospective licensees about how their businesses are likely to be treated in different localities. The existence of a clear and agreed statement of policy will provide greater scope for licensing authorities to work in partnership with local businesses, communities, and responsible authorities to identify and mitigate local risks to the licensing objectives.

1.32 The statement of policy is the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. It ensures that operators have sufficient awareness and understanding of the relevant licensing authority's requirements and approach, including its' view on local risks, to help them comply with local gambling regulation.

1.33 More detail on licensing authorities' statement of policy is set out at Part 6 of this Guidance.

Limits on licensing authority discretion

1.34 Licensing authorities are subject to some specific constraints in exercising their functions. As set out at paragraph 1.25, s.153 of the Act provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it in accordance with the principles set out in s.153(a) to (d).

1.35 Therefore a licensing authority has no discretion to grant a premises licence where that would mean taking a course which it did not think accorded with the Guidance contained in this document, any relevant Commission code of practice, the licensing objectives or the licensing authority's own statement of policy.

1.36 In addition, the Act makes specific reference to factors that must **not** be considered by a licensing authority in exercising its functions under s.153:

- the expected demand for facilities (s.153(2))
- whether the application is to be permitted in accordance with law relating to planning or building (s.210 (1)).

Other powers

1.37 As stated, licensing authorities have a broad discretion to regulate local provision of gambling and they have similar regulatory powers to the Commission with respect to their licensees, including the power to impose conditions and to review licences. They are not able to impose financial penalties but can impose fees relating to the costs of local regulation. They also have wider powers under legislation such as the Licensing Act 2003.

1.38 The Act gives licensing authorities a number of other important regulatory functions in relation to gambling. Their main functions are to:

- issue a statement of licensing policy setting expectations of how gambling will be regulated in the area
- licence premises for gambling activities
- consider notices given for the temporary use of premises for gambling
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulate gaming and gaming machines in alcohol-licensed premises
- grant permits to family entertainment centres (FECs) for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider occasional use notices for betting at tracks
- register small societies' lotteries that fall below certain thresholds
- set and collect fees.

Part 2: The licensing framework

2.1 The Act creates three types of licence:

- operating licences, which are required by businesses in order to provide gambling facilities lawfully
- personal licences, which are required by some people working in the gambling industry
- premises licences, which are required to authorise premises to provide gambling facilities.

2.2 The Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry.

2.3 Licensing authorities have responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in clubs and miners' welfare institutes. In England and Wales, local authorities have these responsibilities; in Scotland they have been given to licensing boards. The Act also provides a system of temporary and occasional use notices. These enable licensing authorities to authorise premises where there is no gambling premises licence in place, to be used for certain types of gambling for limited periods. Parts 14 and 15 provide more information on temporary and occasional use notices.

Operating licences

Types of operating licence

2.4 There are various types of operating licence, linked to different types of gambling activity. S.65 of the Act sets out the types of operating licence that may be issued. Some types of gambling activity may be provided remotely, for example over the internet ('online' gambling) or telephone, or non-remotely such as in land based premises. Some types of licence provide additional permissions, for example to make particular numbers and types of gaming machine available.

2.5 Different activities may be authorised by a single operating licence (a 'combined' operating licence) but a single licence cannot authorise both remote and non-remote activity. The different types of licence and their associated permissions are summarised in the table below:

Type of licence	Non-remote gambling authorised	Remote gambling authorised
Casino operating licence	X	X
Bingo operating licence	X	X
General betting operating licence	X	X
Pool betting operating licence	X	X
Betting intermediary operating licence	X	X
Gaming machine general operating licence for an adult gaming centre	X	
Gaming machine general operating licence for a family entertainment centre	X	
Gaming machine technical operating licence	X	X*
Gambling software operating licence	X	X*
Lottery operating licence	X	X

* by means of remote communication

2.6 Operating licences are not transferable. However, there are provisions in the Act which deal with circumstances in which control of a company changes hands.

How operating licences are granted

2.7 The Commission, like licensing authorities, has a statutory duty to permit gambling insofar as it thinks it is reasonably consistent with the licensing objectives. In considering whether to grant an operating licence, and any conditions that may be attached, the Commission has regard to the licensing objectives, and to the suitability of the applicant, in terms of integrity, competence and finances (including source of finance). The Commission also takes into account the business model proposed and its likely compatibility with the law and the licensing objectives. Putting forward a business model that is incompatible with the licensing objectives is likely to lead to questions of the operator's suitability.

2.8 More detail is available in the Commission's Policy Statement for Licensing, Compliance and Enforcement.

Operating licence conditions and codes

2.9 Conditions covering a range of matters may be attached to operating licences. Some conditions are set out on the face of the Act, such as the mandatory conditions relating to society lotteries at s.99. The Secretary of State has powers under s.78 of the Act to apply conditions to a class of operating licence – for example, the condition that regulates the number of playing positions at wholly automated roulette tables in casinos. The Commission also has powers to attach conditions either to a class of operating licences, or an individual licence.

2.10 Breaching a licence condition is a criminal offence, although the Commission will default to its regulatory rather than criminal powers when considering such a breach. Those powers include warnings, unlimited fines and suspension or revocation of the licence.

2.11 The Commission also has the power to issue two types of code. The first is a social responsibility (SR) code. An SR code must be followed and has the force of a licence condition. The Commission may also issue ordinary codes (OC), which are intended to set out best industry practice. They are not mandatory but operators are expected to follow them unless they have alternative arrangements in place that they can demonstrate are at least equally effective. Both codes are available in the Commission's *Licence Conditions and Codes of Practice* (LCCP).

Personal licences

2.12 The purpose of the personal licence is to ensure that individuals who control facilities for gambling or are able to influence the outcome of gambling, are directly accountable to the Commission. The Commission can impose licence conditions that are specific to personal licences. Such conditions include requirements that the holder takes reasonable steps to avoid causing a breach of an operating licence, keeps up to date with developments in gambling legislation or guidance, and informs the Commission of certain specified key events.

2.13 Outside the casino industry, personal licences are usually held by people in key management positions like strategy, marketing, finance and compliance. In the casino industry, people providing the day to day gambling such as croupiers, also currently need a personal licence.

2.14 Some licences are subject to a requirement that at least one member of management holds a personal licence. This does not apply to small-scale operators, as defined in regulations made by the Secretary of State[3], who are exempt from the obligation.

Premises licences

2.15 Where an individual or company uses premises, or causes or permits premises to be used, to offer gambling, they will also need to apply for a premises licence. Detailed information concerning premises licences can be found in Parts 7, 9 and 10 of this Guidance.

2.16 Premises licences, and the regulatory tools associated with them, are a key means by which licensing authorities can ensure that risks to the licensing objectives are mitigated effectively.

2.17 Premises licences can be granted without conditions or subject to conditions, and can be reviewed or revoked by the licensing authority. Part 9 of this Guidance provides some illustrations of how licence conditions have been used by licensing authorities in a range of circumstances.

2.18 Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated and may authorise the provision of facilities on:

- casino premises
- bingo premises
- betting premises, including tracks
- adult gaming centres
- family entertainment centres.

2.19 Except in the case of tracks (where the occupier of the track who holds the premises licence may not be the person who actually offers the gambling), premises licences may only be issued to those who hold a relevant operating licence, or who have applied for one. Premises licences may be transferred to someone else holding a valid operating licence.

2.20 In addition to licences, there are other forms of authorisation that a licensing authority may grant, for example, authorisations for the temporary use of premises, occasional use notices and different permits for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club machine permits.

3 SI 2006/3266: Reg 2 of the Gambling Act 2005 (Definition of Small-scale Operator) Regulations 2006

Part 3: The Gambling Commission

The Gambling Commission

3.1 The Commission is a Non-Departmental Public Body sponsored by the Department for Culture, Media and Sport (DCMS). It is governed by a board of Commissioners appointed by the Secretary of State. The Commission is publicly funded, although its funding is derived in the main from licence fees that holders of operating and personal licences are required to pay, rather than coming from the Exchequer.

3.2 In common with licensing authorities, the Commission has a statutory duty to have regard to the licensing objectives as set out in s.1 of the Act, and to permit gambling so far as it thinks is reasonably consistent with them.

3.3 The Commission is required to publish and consult on a *Statement of Principles for Licensing and Regulation* which sets out how the Commission approaches its regulatory and other functions under the Act. This can be found at Statement of Principles for Licensing and Regulation.

Main functions of the Commission

3.4 For the purposes of this Guidance, the Commission has the following principle statutory functions:

- issuing operating and personal licences to gambling businesses and individuals occupying certain positions in the gambling industry, with appropriate conditions, and ensuring that holders of licences adhere to their terms
- publishing codes of practice
- publishing statutory guidance to licensing authorities.

3.5 The Commission also has a duty to advise the Secretary of State on gambling and its regulation. To ensure that the Commission is well placed to provide such advice, it monitors developments in gambling in Great Britain and in other jurisdictions. It works closely with a range of regulatory partners, including licensing authorities, and with stakeholders including the industry itself, faith and community groups, and others with concerns about gambling, Government Departments and bodies working in the field of gambling research and problem gambling.

Relationship between the Commission and licensing authorities

3.6 The Commission works jointly with its regulatory partners to pursue the licensing objectives. The Commission's approach is one of partnership building and collaboration through proactive engagement, regular up to date advice and support such as Quick Guides and the LA Bulletin as well as intelligence sharing.

3.7 The Commission draws on the intelligence and insights of its regulatory partners, in particular licensing authorities, who may well be better positioned to identify emerging risks to the licensing objectives, or instances of illegality which can start at a local level. By working closely together we are able to prevent such risks growing into a more widespread problem and to ensure that both Commission and licensing authority resources are used efficiently.

3.8 Since the Act was introduced a great deal of collective experience and insight has been developed, enabling licensing authorities and the Commission to discharge their separate, but sometimes overlapping, functions both more effectively and more efficiently. This ongoing collaboration is vital in ensuring that compliant operators understand the requirements of the regulatory framework and that where non-compliance and illegality occur, appropriate sanctions are applied to deter others and uphold the licensing objectives. Case studies available on the Commission's website provide examples of successful multi-agency initiatives undertaken by the Commission and its regulatory partners.

3.9 In addition to the Commission's monthly bulletin that provides a summary of the key issues affecting licensing authorities, we also provide support and guidance on specific issues at forums and training events. We have a number of field based staff and have set up the Local Authority Liaison Unit who is able to assist licensing authorities with a range of queries.

3.10 In addition to individual licensing authority liaison, the Commission aims to meet regularly with representatives of licensing authorities such as the Local Government Association (LGA), the Convention of Scottish Local Authorities (COSLA), the Welsh Local Government Association (WLGA), the Society of Local Authority Lawyers and Administrators (SOLAR), and the Institute of Licensing (IoL). These meetings provide opportunities to discuss issues of concern, emerging trends and this Guidance.

Further information about the Commission

3.11 Further information about the Commission can be found on our website. This includes Who we are and what we do – An introduction to the Commission. Documentation from the Commission's website which is particularly pertinent to licensing authorities is identified through links within this Guidance.

Part 4: Licensing authorities

4.1 Licensing authorities (as defined in s.2 of the Act) are responsible for local gambling regulation and the Act gives them responsibility for a number of regulatory functions in relation to gambling activities:

- issue a statement of licensing policy setting expectations about how gambling will be regulated in the area
- licence premises for gambling activities
- consider notices given for the temporary use of premises for gambling
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to family entertainment centres (FEC) for the use of certain lower stake gaming machines
- granting permits for prize gaming
- consider occasional use notices of betting at tracks
- register small society lotteries that fall below certain thresholds
- set and collect fees.

4.2 The Act also provides a system of temporary and occasional use notices. These authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling, for limited periods. Parts 14 and 15 of this Guidance provide more information on temporary and occasional use notices.

4.3 In exercising their statutory functions, licensing authorities have a broad discretion in regulating the local provision of gambling through the wide ranging powers at their disposal, including:

- issuing a statement of licensing policy, setting expectations about how gambling will be regulated in a particular area
- granting, refusing and attaching conditions to premises licences
- reviewing premises licences and attaching conditions or revoking them as a result.

Statutory framework

4.4 In addition to the Act, there is other legislation which licensing authorities should be aware of.

Licensing Act 2003

4.5 Licensing authorities in England and Wales have responsibilities under the Licensing Act 2003. There are some inter-dependencies between the Licensing Act 2003 and the Act, in terms of the framework for decision making and the procedures that must be followed. However, licensing authorities must take care to ensure that they follow the procedures and only take into account issues that are relevant to the Act, when dealing with applications under the Act. Particular care should be taken to distinguish considerations made under the Act from those relevant to alcohol licensing, public entertainment or late night refreshments.

Licensing (Scotland) Act 2005[4]

4.6 The position in Scotland is similar, with procedures and decision making requirements under both the Licensing (Scotland) Act 2005 and the Act. The same care must be taken by licensing authorities in Scotland to consider only those issues which are relevant to matters under the Act in their decision making, and to ensure that they follow the prescribed procedures under the Act.

[4] Subject to the outcome of the discussions around the Smith Commission, there may be implications for the powers of licensing boards and licensing standards officers in Scotland

Other provisions and legislation

4.7 Conditions on premises licences should relate only to gambling, as considered appropriate in light of the principles to be applied by licensing authorities under s.153 of the Act. Accordingly, if the Commission's *Licence Conditions and Codes of Practice* (LCCP) or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not necessary or appropriate to impose similar conditions on a premises licence issued in accordance with the Act.

4.8 Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities or concerns, the Act does not affect the continued use of such powers, for example, the powers of an environmental health officer in respect of statutory nuisance under the Environmental Protection Act 1990.

Licensing authority decisions

4.9 S.153 provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it is:

a. in accordance with any relevant code of practice under s.24
b. in accordance with any relevant guidance issued by the Commission under s.25
c. reasonably consistent with the licensing objectives (subject to a and b above)
d. in accordance with the licensing authority's statement of licensing policy (statement of policy) (subject to a to c above).

4.10 Therefore, a licensing authority has no discretion in exercising its functions under Part 8 of the Act, to grant a premises licence where that would mean taking a course which it did not think accorded with the Guidance contained in this document, any relevant Commission code of practice the licensing authority's own statement of policy or were reasonably consistent with the licensing objectives.

Delegations

4.11 The decision making powers of licensing authorities may be delegated, as set out in s.154 of the Act for England and Wales and s.155 for Scotland. Decisions that are delegated to a licensing committee, may be further delegated to a sub-committee, which may then arrange for the decision to be taken by an officer of the authority.

4.12 It is open to licensing committees to choose not to delegate decisions. An important consideration in determining whether any particular decision should be delegated will be whether delegation might give rise to a risk of judicial review challenge, particularly on the basis of appearance of bias.

4.13 The tables at Appendix G set out a summary of licensing authority delegations permitted under the Act for England and Wales, and for Scotland.

Part 5: Principles to be applied by licensing authorities

Licensing objectives

5.1 In exercising their functions under the Act, particularly in relation to premises licences, temporary use notices and some permits, licensing authorities must have regard to the licensing objectives set out in s.1 of the Act, namely:

- 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.

5.2 It is expected that the licensing authority will have set out their approach to regulation in their statement of policy, having taken into account local circumstances. This is dealt with in more detail at Part 6.

Objective 1 : Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

5.3 Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. For example, in considering an application for a premises licence or permit that is in an area noted for particular problems with disorder, organised criminal activity etc, the licensing authority should think about what, if any, controls might be appropriate to prevent those premises being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors. The requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority, as detailed in Part 6.

5.4 A licensing authority will need to consider questions raised by the location of gambling premises when:

- formulating its statement of licensing policy
- receiving relevant representations to an application
- dealing with applications as a responsible authority in its own right
- considering applications before it.

5.5 In the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

5.6 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. However, if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.

5.7 Of course, licensing authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003 / Licensing (Scotland) Act 2005, in which context they have wider powers to also take into account measures to prevent nuisance.

5.8 In relation to preventing disorder, licensing authorities have the ability under s.169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in s.178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions on premises licences can be found in Part 9 of this Guidance.

5.9 There are a number of voluntary initiatives that the gambling industry participates in to address issues such as underage access, staff safety and security. These change from time to time and licensing authorities are advised to check with local operators, for example when conducting inspections, as to which (if any) scheme the operator is a part of. Further information can often be found on the website of industry trade associations[5].

5.10 Licensing authorities do not need to investigate the suitability of an applicant for a premises licence, including in relation to crime. The issue of suitability will already have been considered by the Commission, because any applicant (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued. However, if the licensing authority receives information during the course of considering a premises licence application or at any other time, that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

Objective 2 : Ensuring that gambling is conducted in a fair and open way

5.11 Generally the Commission would not expect licensing authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. However, if licensing authorities suspect that gambling is not being conducted in a fair and open way this should be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.

5.12 In relation to the licensing of tracks, the licensing authority's role will be different from other premises in that track owners will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Further information can be found in Part 20 of this Guidance.

Objective 3 : Protecting children and other vulnerable persons from being harmed or exploited by gambling

5.13 In exercising their powers under s.153, licensing authorities should consider whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling. The Commission would expect the operator and the licensing authority to work together to consider how any impediments to the supervision of premises might be most appropriately remedied. Supervision also applies to premises that are themselves not age-restricted (eg bingo and family entertainment centre (FEC) premises) but which make gambling products and facilities available.

[5] For example, The Safe Bet Alliance's Voluntary Code of Safety and Security National Standards for Bookmakers

5.14 Where a licensing authority considers the structure or layout of premises to be an inhibition or potential inhibition to satisfying this licensing objective, the licensee should consider what changes are required to ensure the risk is mitigated. Such changes might include the positioning of staff or CCTV, the use of floor-walkers and the relocation of the staff counter to enable direct line of sight. Licensing authorities will need to consider the proportionality of changes to the physical layout in relation to other measures that could be put in place.

5.15 If the operator fails to satisfy the licensing authority that the risks are sufficiently mitigated, it may be appropriate to conduct a review of the premises licence.

5.16 In relation to casinos, the Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by s.176 of the Act. The code of practice is available as part of the *Licence Conditions and Codes of Practice* (LCCP) In accordance with s.176 of the Act, adherence to the code will be a condition of the premises licence. Further information can be found in Parts 9 and 17 of this Guidance.

5.17 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons' but it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.

5.18 Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. This could be a local risk that is reflected in the licensing authority's statement of policy. Any such considerations need to be balanced against the authority's objective to aim to permit the use of premises for gambling.

S.153 principles

5.19 S.153 of the Act provides that, in exercising its functions under Part 8 of the Act, a licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

a. in accordance with any relevant code of practice under s.24 (ie the LCCP)
b. in accordance with any relevant guidance issued by the Commission under s.25 (ie this Guidance)
c. reasonably consistent with the licensing objectives (subject to a and b above), and
d. in accordance with the licensing authority's statement of licensing policy (subject to a to c above).

5.20 Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with this Guidance, any relevant Commission code of practice, its own statement of policy, and the licensing objectives.

5.21 In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this Guidance, and its own statement of policy or view as to the application of the licensing objectives, the structure of s.153 makes it clear that the Commission's codes and this Guidance take precedence.

5.22 In determining applications for premises licences, the Act explicitly sets out two principles that licensing authorities should **not** have regard to:

- s.153 makes it clear that in deciding whether or not to grant a licence, a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application
- s.210 (1) of the Act states that 'in making a decision in respect of an application...a licensing authority should not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building'.

5.23 A licensing authority is therefore afforded significant scope to exercise its powers under s.153 on the grounds that it does not encroach on the two principles set out above.

5.24 The requirements in s.153 are subject to the licensing authority's power under s.166 to resolve not to issue casino premises licences. This means that a resolution not to issue a casino premises licence applies regardless of the matters set out in s.153.

Codes of Practice

5.25 The LCCP sets out the Commission's general licence conditions and associated codes of practice provisions under the Act. The codes of practice are set out within Part II of the LCCP.

5.26 To assist licensing authorities in determining premises applications and inspecting premises, all the codes of practice are also available as a single document. The codes specify a number of requirements, many of which relate to social responsibility issues and these may be of particular interest where a licensing authority has concern about matters such as protection of the young and vulnerable. It should be noted that the codes also apply to situations in which the gambling being offered is not normally the responsibility of an operating licence holder. Examples include the *Code of practice for equal chance gaming* and the *Code for gaming machines in clubs and premises with an alcohol licence*.

Good practice in regulation

5.27 Under the Legislative and Regulatory Reform Act 2006, any person exercising a specified regulatory function has a legal duty to have regard to the statutory principles of good regulation[6] in the exercise of the function. These provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed. The Commission has regard to these principles in relation to its responsibilities and also has regard to the requirements of the Regulators' Code[7]. The purpose of the Code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.

5.28 The statutory principles of good regulation and the Regulators' Code also apply to local authorities, who are under a statutory duty to have regard to them when fulfilling their regulatory functions under the Act[8].

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[6] Legislative and Regulatory Reform Act 2006, section 21

[7] Regulators' Code (previously the Regulators' Compliance Code), Department of Business, Innovation and Skills, 2014, issued under section 23 of the Legislative and Regulatory Reform Act 2006

[8] The Legislative and Regulatory Reform (Regulatory Functions) Order 2007, was amended by the Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2009, which, amongst other things, extended the application of the 2007 Order to local authorities in Wales and Scotland exercising regulatory functions under the Gambling Act 2005 - see Parts 3 and 7

5.29 Guidance produced by the Better Regulation Delivery Office seeks to assist local authorities in interpreting the requirements of the Regulators' Code, for example in developing their Compliance and Enforcement Policy[9], and in delivering risk-based regulation in relation to age restrictions[10].

Human Rights Act 1998

5.30 The Secretary of State has certified that the Act is compatible with the European Convention on Human Rights. In considering applications, and taking enforcement action under the Act, licensing authorities should bear in mind that they are subject to the Human Rights Act 1998 and in particular:

- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
- Article 10 – right to freedom of expression.

Other considerations

5.31 Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

5.32 In determining applications for premises licences and permits, a licensing authority may request as much information as it requires to satisfy itself that all the requirements set out at s.153 of the Act are met.

5.33 Where concerns remain, licensing authorities may choose to attach conditions to the premises licence. Further details are provided in Part 9.

5.34 Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

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[9] *Template: Compliance and Enforcement Policy*, Better Regulation Delivery Office. This template policy was developed by the Local Better Regulation Office, with local authorities, to assist local authorities in developing a policy that is in line with the requirements of the Regulators' Compliance Code, or to review their existing policy. It is available on the BRDO website at http://www.bis.gov.uk/brdo/resources/risk-based-regulation/compliance-policy

[10] *Age restricted products and services framework / updated April 2014* sets out an agreed set of shared responsibilities and reasonable expectations for young people, their parents and carers, businesses, employees and regulators with regards to access to age restricted products and services. The document forms the foundations of the *Age restricted products and services: a code of practice for regulatory delivery / updated April 2014*

Part 6: Statement of licensing policy

Introduction

6.1 S.349 of the Act requires all licensing authorities to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act, commonly known as a statement of policy. The statement of policy forms the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality.

6.2 The statement of policy acts as the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. For example, a licensing authority might identify the safeguarding of children as a key priority, in which case its statement would set out those policies, procedures and control measures it would expect licensees to follow to mitigate any risks relating to underage gambling.

6.3 Statements of policy are likely to reflect differences in approach between different licensing authorities. The statement made by a seaside town licensing authority, which may see gambling businesses as an important part of its plans for growth and regeneration based on regular influx of visitors, may well be significantly different from that of an inner city authority, which may be more concerned with impact on the vulnerable. In this respect, licensing authorities may find it helpful to make an assessment of the pattern of gambling and associated risks to the licensing objectives in their own areas.

6.4 The Commission encourages licensing authorities to have a statement of policy that is genuinely reflective of local issues, local data, local risk and the expectations that a licensing authority has of operators who either currently offer gambling facilities or wish to do so in the future. The existence of a clear and robust statement of policy provides greater scope for licensing authorities to work in partnership with operators, other local businesses, communities, and responsible authorities to identify and to proactively mitigate local risks to the licensing objectives.

6.5 The statement of policy can be reviewed and revised by the licensing authority at any time, but must be produced following consultation with those bodies and persons set out in s.349(3) of the Act. Regulations made by the Secretary of State, or Scottish Ministers in Scotland, prescribe the form of statements, and the procedure to be followed in relation to them and their publication, as detailed in paragraph 6.11 onwards.

6.6 Licensing authorities should ensure that the statement of policy balances the need for a degree of certainty on the part of gambling businesses with the need to remain responsive to emerging risks. It should be evidence led, based on the principles outlined below and reviewed at least every three years.

Fundamental principles

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

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

6.8 The statement should also state that the licensing authority shall aim to permit the use of premises for gambling as set out in s.153 of the Act.

6.9 It is expected that licensing authorities will regulate gambling in the public interest which will be reflected in the statement of policy.

6.10 While the statement of policy may set out a general approach to the exercise of functions under the Act, it should not override the right of any person to make an application and to have that application considered on its merits. The exception to this is where the licensing authority has passed a 'no casino' resolution under s.166(1) of the Act, detailed in Part 17 of this Guidance. Additionally, the statement must not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

Form and content

6.11 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006[11] (and The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006[12], (set out requirements as to the form and publication of licensing authority statements of policy and subsequent revisions of statements. In addition to those requirements, this Guidance sets out certain information that the Commission considers should be included in all licensing authority statements of policy.

6.12 The regulations provide that the form of the statement can be determined by the licensing authority itself, subject to the requirement that the statement of policy must contain an introductory section summarising the matters contained within the statement. The introductory section must include:

- a description of the geographical area to which the statement of policy applies, which can be satisfied by including a plan of the area
- a list of the persons consulted in preparing the statement.

6.13 The statement of policy should set out the activities that the licensing authority is able to license.

6.14 The regulations also require the statement of policy to set out specific matters in separate sections relating to the principles to be applied by the licensing authority in exercising:

i. its powers under s.157(h) of the Act to designate, in writing, a body which is competent to advise it about the protection of children from harm
ii. its powers under s.158 of the Act to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence
iii. the functions under s.29 and s.30 of the Act with respect to the exchanges of information between it and the Commission, and the functions under s.350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act
iv. the functions under Part 15 of the Act with respect to the inspection of premises and the power under s.346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

Each of these is set out in further detail below.

[11] SI 2006/636: The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
[12] SSI 2006/156: The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006

i. Competent authority for protection of children from harm

6.15 Under s.349 of the Act, the statement of policy must set out the principles that the licensing authority proposes to apply in exercising their functions. One of those functions is to determine who will be competent to advise them about the protection of children from harm and so the statement of policy must contain a section that sets out the principles the licensing authority will apply in designating a competent body.

6.16 In many licensing authority areas, the recognised competent body will be the local Safeguarding Children Board in England and Wales, or the Child Protection Committee in Scotland. However, the licensing authority has discretion to determine the most appropriate competent body to advise it, and must consider which body best fulfils this function. The statement of policy should set out this consideration, or the criteria the authority intends to use, in order to designate that body and confirm that designation in writing.

6.17 A designated body is a responsible authority under s.157(h) of the Act. Licensing authorities should engage fully with the designated body and provide sufficient opportunity for them to be consulted on the development of the statement of policy, as they can offer valuable insight into the impact of gambling on children in the local area. Licensing authorities might also opt to consult such groups as part of its own local area profile, discussed at paragraph 6.47 onwards.

ii. Interested parties

6.18 Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence.

6.19 S.158 of the Act defines interested parties as persons who, **in the opinion of the licensing authority**:

a) live sufficiently close to the premises to be likely to be affected by the authorised activities
b) have business interests that might be affected by the authorised activities
c) represent persons who satisfy paragraph a) or b).

6.20 It is a matter for the licensing authority to decide whether a person is an interested party with regard to particular premises and that should be decided on a case by case basis. However, the licensing authority should set out the principles it will apply in determining whether a person is an interested party in its statement of policy, and that may include relevant factors it will take into account. For example, this could be the size of the premises and the nature of the activities taking place as larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.

6.21 Licensing authority statements of policy should include guidance as to whom they consider comes within the category of those who living sufficiently close to premises to be affected by it or have business interests, that may be affected by it. For example, this could include trade associations, trade unions, residents' and tenants' associations. It is expected that the types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices.

iii. Exchange of information

6.22 Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority in relation to the exchange of information with the Commission (s.29 and s.30 of the Act) and other persons (s.350 of the Act).

6.23 S.29 of the Act enables the Commission to require information from licensing authorities, including the manner in which the information is compiled, collated and the form in which it is provided, providing that it:

- forms part of a register maintained under the Act
- is in the possession of the licensing authority in connection with a provision of the Act.

6.24 S.350 of the Act allows licensing authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6(1) as:

- a constable or police force
- an enforcement officer
- a licensing authority
- HMRC
- the First Tier Tribunal
- the Secretary of State
- Scottish Ministers.

6.25 The licensing authority statement of policy must set out how it will approach information exchange with other persons or bodies under the Act, and whether it intends to establish any protocols in this regard. The statement of policy should also include the authority's approach to data protection and freedom of information, in particular, how information will be protected, whether the confidentiality of those making representations will be maintained, what information will be shared with other agencies or persons and how information can be accessed by data subjects.

6.26 Further information regarding the exchange of information can be found in Part 13 of this Guidance.

6.27 For the purposes of their statement of policy, licensing authorities should confirm that they will act in accordance with the relevant legislation and Guidance from the Commission and will adopt the principles of better regulation (detailed at paragraph 5.27).

iv. Inspection and criminal proceedings

6.28 Licensing authority statements of policy must contain a section that sets out the principles to be applied by the licensing authority in exercising their inspection function (part 15 of the Act) and in instigating criminal proceedings (s.346 of the Act).

6.29 The statutory principles of good regulation and the Regulators' Code (paragraph 5.27) apply to licensing authorities. This means that inspection and enforcement activities must be carried out in a way which is transparent, accountable, proportionate, consistent and targeted, and promotes efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

6.30 The statement of policy should set out the principles to be applied by the licensing authority in relation to inspections. It is recommended that licensing authorities adopt a risk-based approach to inspection programmes and the statement of policy should outline the criteria the licensing authority will use to determine the level of risk in respect of premises. Such an approach could include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more effectively concentrated on potential problem premises. If the licensing authority has a local area profile, as outlined at paragraph 6.47 onwards below, their inspection approach is likely to informed by it.

6.31 Many licensing authorities in England and Wales will have general enforcement policies which are in accordance with the codes of practice developed with the Crown Prosecution Service. Such licensing authorities may wish to refer to these codes in their statement of policy, in relation to the management of criminal cases.

6.32 Further guidance on licensing authorities' compliance and enforcement responsibilities is available in Part 36 of this Guidance. This has been developed following discussions between the Commission, the police, licensing authorities and other law-enforcement and regulatory agencies to agree respective roles in relation to particular types of gambling and licensed premises.

Other matters to be considered

Relevant factors when considering applications and reviews

6.33 The statement of policy should set out what factors it is likely to take into account when considering applications for premises licences, permits and other permissions, and when determining whether to review a licence. This may be informed by the licensing authority's local area profile and will include considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children.

6.34 Although the statement of policy should identify the factors to be considered, it should be clear that each application or review will be decided on its merits. Importantly, if an applicant for a premises licence can show how risks to the licensing objectives can be mitigated, the licensing authority will need to take that into account in its decision making.

Statement regarding casino resolution

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

Other regulatory regimes

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

Demand for gaming premises

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

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

Other information

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

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

Local risk assessments

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

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

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

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

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

6.45 Where concerns do exist, perhaps prompted by new or existing risks, a licensing authority might request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions is required. There is no statutory requirement for licensees to share their risk assessments with responsible authorities or interested parties, however responsible businesses will wish to assist licensing authorities and responsible authorities are far as possible in their consideration of applications by making relevant information available as part of their applications**.**

6.46 Where a licensing authority's statement of policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

Local area profile

6.47 Licensing authorities will find it useful to complete their own assessment of the local environment as a means of 'mapping out' the key characteristics of the local area, which can be reviewed and updated to reflect changes to the local landscape. For the purpose of this Guidance, we refer to such assessments as *local area profiles*. Completion of a local area profile is not a requirement on licensing authorities but there are significant benefits for both the licensing authority and operators, in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risks, thereby taking into account possible future emerging risks, rather than reflecting current risks only.

6.48 An effective local area profile is likely to take 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 will be proactive engagement with responsible authorities as well as other organisations in the area that can give input to 'map' local risks in their area. These are likely to include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.

6.49 Good local area profiles will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment, discussed at paragraph 6.41 above, which will form a part of any new licence application, or an application to vary a licence.

6.50 For example, an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school. The licensing authority might indicate, for example, that they would expect licensees to take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises. The licensee would be reasonably expected to have sufficient controls in place to mitigate associated risks in such areas and, if not, the licensing authority would consider other controls themselves.

6.51 It is for licensing authorities to determine whether to include a local area profile within the body of their statement of policy or separately. If included in the statement of policy, the licensing authority's view of local risks would be a consideration for local gambling regulation in the context of s.153 of the Act. Licensing authorities may consider this is best achieved by making reference to the local area profile, so that it can be reviewed and updated without the need for full consultation.

6.52 There is no prescriptive template for a local area profile, as each assessment will be influenced by local circumstances. However it is expected that it will draw upon the knowledge and expertise of responsible authorities and be updated on a regular basis to reflect changes to the local environment.

6.53 As stated, there is no mandatory requirement to have a local area profile, but there are a number of benefits:

- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it
- greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application
- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

Declaration by licensing authority

6.54 Licensing authorities may wish to include a declaration in their statement of policy which sets out that, in producing the final statement of policy, it has had regard to:

- the licensing objectives in the Act
- this Guidance issued by the Commission
- any responses from those consulted on its statement of policy.

6.55 Licensing authorities should note that the regulations and this Guidance do not prevent them from including any additional information that they consider necessary or helpful.

Consultation

6.56 In determining its statement of policy, the licensing authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give, the factors to be taken into account include:

- who is making the representations, the nature of their interest and their expertise
- relevance of the factors to the licensing objectives
- how many other people have expressed the same or similar views
- how far the representations relate to matters that the licensing authority should be including in its policy statement.

6.57 A licensing authority should always be able to give reasons for the decisions it has made following consultation. Having regard to this Guidance will be important for consistency.

Consultation process

6.58 S.349(3) of the Act requires licensing authorities to consult with the following on their statement of policy or any subsequent revision:

- in England and Wales, the chief officer of police for the authority's area
- in Scotland, the Chief Constable of the police force maintained for the police area comprising that 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
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

6.59 The list of persons to be consulted is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in their statement of policy.

6.60 It is a matter for licensing authorities to develop their own consultation practices, including the methods for consultation and who they consider it necessary to consult with, which might include consultation with relevant local groups, business and responsible authorities.

6.61 Any written consultation should follow best practice as set out by the Department for Business, Innovation and Skills. Consultation responses should usually be published within 12 weeks of the consultation closing. Where licensing authorities do not publish a response within 12 weeks, they should provide a brief statement on why they have not done so. Consultation documents could be provided on the licensing authority's website.

Reviewing and updating the statement of policy

6.62 S.349 of the Act requires licensing authorities to prepare a statement of policy and publish it every three years. Separately from this licensing authorities may review and alter their statement of policy during that three year timeframe. For example, licensing authorities will need to consider if their statement of policy should be reviewed in the event of other changes for example, a change in local planning policy. Any interim review during the three year period does not replace the requirement to prepare and publish a statement of policy every three years from the date of the publication of the licensing authority's first statement.

6.63 Where the statement of policy is reviewed and changes proposed, licensing authorities must consult on any revision.

6.64 Authorities should note that where a statement is revised, it is only the revision that needs to be published and consulted on. So, for example, an authority may consult separately on whether to pass a casino resolution and then subsequently publish the resolution as part of the statement. This can be done without any need to review and reopen consultation on the main body of the statement. The same would apply if the licensing authority was updating its local area profile to take account of changing local risks. Any revisions must be published and advertised in the same way as a new statement.

6.65 The regulations referred to at paragraph 6.11 confirm that the form and content of revisions to the statement of policy can be determined by the licensing authority, subject to the requirement that the revisions must include an introductory section at or near the beginning, summarising the matters dealt with in the statement and listing the persons consulted in preparing the revision.

6.66 Where the revision deals with any of the matters below, these must be presented in separate sections:

1) the principles to be applied in exercising the powers under s.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
2) the principles to be applied by in exercising the powers under s.158 of the Act, to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence
3) the principles to be applied in exercising functions under s.29 and 30 of the Act with respect to the exchange of information between it and the Commission, and the functions under s.350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act
4) the principles to be applied in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under s.346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

Advertisement and publication

Advertising the statement of policy or revisions

6.67 Before a statement or revision comes into effect, the regulations referred to at paragraph 6.11 require licensing authorities to publish a notice of their intention to publish a statement or revision. The notice must:

- specify the date on which the statement or revision is to be published
- specify the date on which the statement or revision will come into effect
- specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected
- be published on the authority's website and in/on one or more of the following places for at least four weeks before it comes into effect:
  - a local newspaper circulating in the area covered by the statement
  - a local newsletter, circular, or similar document circulating in the area covered by the statement
  - a public notice board in or near the principal office of the authority
  - a public notice board on the premises of public libraries in the area covered by the statement.

Publishing the statement of policy or revisions

6.68 The regulations at paragraph 6.11 stipulate that the statement of policy or any subsequent revision, must be published on the licensing authority's website and be made available at reasonable times for inspection by members of the public at one or more public libraries in the area covered by the statement or in other premises situated in that area. The statement or revision must be published at least four weeks before it takes effect.

Additional information to be made available

6.69 In order to ensure that applicants and persons who wish to make representations have the necessary information to be able to do so, the information set out below should be made available by licensing authorities are part of their communication strategy.

6.70 It is open to licensing authorities to include any of this information in their statement of policy. However, they might think it more appropriate to make it available in another form, such as on their website.

Registers

6.71 S.156 of the Act requires licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. Authorities should ensure that information regarding the location of the registers (ie on the website, in the council offices etc), when they can be viewed, and the cost of obtaining copies is made available to the public.

6.72 A database of premises licences is available on the Commission's website (Database of premises licences) and consists of information submitted by licensing authorities. The register is published with the caveat that the Commission cannot provide any assurance on the completeness and accuracy of this data. The Commission recommends that licensing authorities should be contacted directly for accurate and up-to-date premises information.

Fees

6.73 Under s.212(2)(d) of the Act, local authorities shall 'aim to ensure that the income from fees… as nearly as possible equates to the costs of providing the service to which the fees relates'. Further information on fees setting in England, Wales and Scotland in available in Part 36.

Applications

6.74 Licensing authorities should ensure that information is available on how to make applications for licences and other permissions under the Act. In particular, it would be helpful if licensing authorities ensure that a full list of responsible authorities and their appropriate contact details is readily available. Application forms, where appropriate, should also be made available. Licensing authorities should note that there are no prescribed application forms for family entertainment centre, prize gaming or licensed premises gaming machine permits. As such, the licensing authority will need to make clear how applications for these permits should be made and in what form. Additionally, licensing authorities will need to ensure that information regarding making representations, and applying for a review of a premises licence, is also made available.

Statutory application forms and notices

6.75 There are a range of statutory application forms and notices that licensing authorities are required to use as part of their gambling licensing responsibilities. A summary list of these can be found in Appendix E. The forms and notices can be downloaded from the Commission's website www.gamblingcommission.gov.uk.

Delegation

6.76 Information should be provided as to how functions are delegated under the Act (ie whether decisions are to be taken by a licensing officer, licensing sub-committee or full committee etc). A table setting out the scheme of delegation required by the Act may be the most appropriate method for this and is located in Appendix G of this Guidance.

Responsible Authorities

6.77 Whilst not a statutory requirement, licensing authorities are encouraged to make available the contact details for all responsible authorities.

Part 7: Premises licences

7.1 Considering applications for premises licences is the main business of the licensing authority in terms of local gambling regulation. Where an individual or company uses premises, or causes or permits premises to be used to offer gambling, a premises licence is required.

7.2 Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated. Guidance on dealing with premises which are situated in more than one licensing authority can be found at paragraph 7.10.

Premises

7.3 In accordance with s.150 of the Act, premises licences can authorise the provision of facilities on:

a) casino premises
b) bingo premises
c) betting premises, including tracks and premises used by betting intermediaries
d) adult gaming centre (AGC) premises (for category B3, B4, C and D machines)
e) family entertainment centre (FEC) premises (for category C and D machines) – the licensing authority may issue a FEC gaming machine permit, which authorises the use of category D machines only.

7.4 By distinguishing between premises types, the Act makes it clear that the gambling activity of the premises should be linked to the premises described. Thus, in a bingo premises, the gambling activity should be bingo, with gaming machines as an ancillary offer on the premises. This principle also applies to existing casino licences (but not to licences granted under the Act) and betting premises licences. The *Licence Conditions and Codes of Practice* (LCCP) sets out in full the requirements on operators. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities.

Meaning of premises

7.5 In the Act, 'premises' is defined as including 'any place'. S.152 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not 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 reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as pleasure parks, tracks, or shopping malls to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-division of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

7.6 In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.

7.7 The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.

7.8 The Commission recognises that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence – with the machine entitlements that brings – and are not an artificially created part of what is readily identifiable as a single premises.

7.9 The Act sets out that the type and number of higher stake gaming machines allowable in premises is restricted according to the type of premises licence or permit granted. For example, a converted casino licence allows for 20 gaming machines in categories B, C or D. With the exception of AGCs and FECs, premises are not permitted to be used exclusively for making gaming machines available, but rather to provide the gaming facilities corresponding to the premises licence type. Further detail on gaming machines is set out in Part 16 of this Guidance.

7.10 The Act states that an application must be made to **a** licensing authority in whose area the premises are wholly or partly situated. In circumstances where the premises lie in more than one licensing authority's area, the operator should make their application to just one of those authorities. As both licensing authorities are 'responsible authorities' under s.157 of the Act, the other licensing authority must be notified of the application and is entitled to make representations. As a responsible authority, it has an opportunity to pass relevant information about the premises to the licensing authority determining the application. Further detail on responsible authorities is set out at Part 8 of this Guidance.

7.11 Casino premises are subject to separate regulations, involving a two-stage application process. Details of the two stage process can be found in Part 17 of this Guidance.

Vessels

7.12 The Act permits premises licences to be granted for passenger vessels. Separate application forms are prescribed for vessels under the Premises Licences and Provisional Statements Regulations.[13] The definition of a vessel in s.353(1) of the Act is:

- anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water
- a hovercraft
- anything, or part of any place, situated on or in water.

7.13 This last part of the definition should be given a normal and sensible interpretation. Structures which are an extension of the land are not vessels, even if they arch over water. Thus, neither a pier nor a bridge is to be considered a vessel and they remain premises under the Act. This is important because not all forms of permit are available to vessels.

[13] SI 2007/459: Gambling Act 2005 (Premises Licenses and Provisional Statements) Regulations 2007
SSI 2007/196: Gambling Act 2005 (Premises and Provisional Statements) Regulations 2007

7.14 The Act allows pleasure boats to apply for premises licences. As with multi-purpose buildings, the part of the vessel where gambling takes place will be licensed and the usual restrictions on access for children will apply. The Act applies in relation to a vessel that is not permanently moored or berthed, as if it were premises situated in a place where it is usually moored or berthed. The relevant licensing authority for considering an application for a premises licence in respect of a vessel is the authority for the area in which it is usually moored or berthed.

7.15 Where a premises licence is sought in connection with a vessel which will be navigated while licensable activities take place, the licensing authority should be concerned with the promotion of the licensing objectives on board the vessel. It should not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provision, all of which are subject to regulations which must be met before the vessel is issued with its Passenger Certificate and Safety Management Certificate.

7.16 Licences are not required for gambling if it takes place aboard a vessel engaged on an international journey. Such gambling is exempted from the offences under the Act if the vessel is on a journey which has taken it, or is intended to take it, into international waters (so this includes cross-channel ferries). In the case of aircraft, no offence takes place if the gambling takes place in international airspace.

7.17 This means that licensing authorities will have jurisdiction over gambling conducted on vessels on all inland waterways, at permanent moorings, and on all aircraft on the ground or in domestic airspace. If an ocean-going vessel is involved, authorities will need to establish where the vessel has been, or is intending to go.

Vehicles

7.18 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Great Britain. Certain allowances are made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements. These ensure that, at no point, can the gambling become a commercial activity.

Access to premises

7.19 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. The precise nature of this public area will depend on the location and nature of the premises. Licensing authorities will need to consider whether the effect of any division is to create an environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available.

7.20 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations[14] set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises to another, except between premises which allow access to those under the age of 18 and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under-18s can go into FECs, tracks, pubs and some bingo clubs, so access is allowed between these types of premises.

[14] SI 2007/1409: The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
SSI2007/266: The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007

7.21 These Regulations define street as 'including 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'. This is to allow access through areas which the public might enter for purposes other than gambling, for example, access to casinos from hotel foyers.

7.22 There is no definition of 'direct access' in the Act or regulations, but licensing authorities may consider that there should be an area separating the premises concerned, for example a street or cafe, which the public go to for purposes other than gambling, for there to be no direct access.

7.23 The relevant access provisions for each premises type is as follows:

Type of premises	Access provisions
Casinos	• the principal entrance to the premises must be from a 'street' • 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.
AGCs	• no customer must be able to access the premises directly from any other licensed gambling premises.
Betting shops	• access must be from a 'street' or from other 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 unless that shop is itself a licensed betting premises.
Tracks	• no customer must be able to access the premises directly from a casino or AGC
Bingo premises	• no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track
FECs	• no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track.

Access to gambling by children and young people

7.24 The Act contains the objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling' and sets outs offences at s.46 and s.47 of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. Children are defined in the Act as under-16s and young persons as 16-17 year olds. An adult is defined as 18 and over.

7.25 Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- casinos are not permitted to admit anyone under 18
- betting shops are not permitted to admit anyone under 18
- bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18
- AGCs are not permitted to admit those under 18

- FECs and premises with a liquor licence (for example pubs) can admit under-18s, but they must not play category C machines which are restricted to those over 18
- clubs with a club premises certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- all tracks can admit under-18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place. This was extended to other sporting venues under the Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007.[15] Tracks will be required to have policies to ensure that under-18s do not participate in gambling other than on category D machines.

7.26 Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits.

7.27 For bingo and FEC premises, it is a mandatory condition that under-18s should not have access to areas where category B and C gaming machines are located and this is achieved through further mandatory conditions that require the area to be:

- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose
- supervised at all times to ensure that under-18s do not enter the area, and supervised by either:
  - one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
  - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
- arranged in a way that ensures that all parts of the area can be observed.

A notice must be displayed in a prominent place at the entrance to the area stating that no person under the age of 18 is permitted to enter the area.

7.28 Products made available for use in gambling premises will often contain imagery that might be of particular appeal to children or young people. For example, cartoon imagery that is ubiquitous on gaming machine livery. Where any such product is sited on age-restricted premises or in the age-restricted area of premises (and in particular, if sited close to the entrance or threshold and therefore visible to children or young people), licensees should consider whether it might risk inviting under 18s to enter the restricted area.

7.29 The LCCP requires licensees to ensure that their policies and procedures for preventing underage gambling take account of the structure and layout of their gambling premises. This therefore requires licensees not only to be able to supervise their premises but also that they should mitigate the risks of under 18s being attracted to enter premises by the products available within them. Where a licensing authority has concerns that such products are visible, they could for example require the licensee to re-site the products out of view.

7.30 There are a range of other conditions which attach to each type of premises which are set out in Part 9 of this Guidance and other Parts relating to each type of premises.

[15] SI 2007/1410: Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007

Multiple activity premises – layout and access

7.31 With the exception of bingo clubs, tracks on race-days and licensed FECs, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.

7.32 Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:

- the third licensing objective seeks to protect children from being harmed or exploited by gambling. In practice this means not only preventing them from taking part in gambling, but also prevents them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- customers should be able to participate in the activity named on the premises licence.

7.33 In determining whether two or more proposed premises are truly separate, the licensing authority should consider factors which could assist them in making their decision, including:

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

The Commission has published a quick guide to assist licensing authority officers when considering applications for, and conducting inspections of, multi-activity premises[16].

7.34 Where a building consists of a number of areas which hold separate premises licences, each individual licence must not exceed its permitted gaming machine entitlement. The position is different for tracks, as detailed in Part 20.

7.35 The proper application of s.152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo club on week days and a betting shop at weekends.

Single and combined licences

7.36 Only one premises licence may be issued for any particular premises at any time although, in some circumstances, the licence may authorise more than one type of gambling. For example, a bingo licence will also authorise the provision of gaming machines. Details of the gambling permissible under each type of licence are set out in the Act and in the premises specific parts of this Guidance.

16 This quick guide does not form part of the Guidance to Licensing Authorities

7.37 The exception to this relates to tracks, that is a horse racing course, dog track or other premises where races or sporting events take place, which may be subject to more than one premises licence, provided each licence relates to a specified area of the track.

7.38 The Act sets out that there will be a main (betting premises) licence for the track, and, in addition, subsidiary premises licences for other gambling activities may be issued. The normal limitations in respect of access by children and young persons will apply, although in relation to a premises licence for a track, 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. This is subject to the rule that children and young persons may not enter any area where gaming machines (other than category D machines) are provided.

7.39 In principle there is no reason why multiple types of gambling should not co-exist on a track (with the exception of a casino or AGC[17]), but licensing authorities will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, licensing authorities will need to ensure that entrances to each type of premises are distinct and that under-18s are excluded from gambling areas where they are not permitted to enter.

Applications

7.40 A summary of the application forms and statutory notices is provided at Appendix E and the forms can be downloaded from the Commission's website www.gamblingcommission.gov.uk.

7.41 An application for a premises licence may only be made by persons (which includes companies or partnerships):

- who are aged 18 or over **and**
- who have the right to occupy the premises and
- who have an operating licence which allows them to carry out the proposed activity. Details of operators that hold an operation licence are available on the Commission's website **or**
- who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

7.42 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people to provide betting (and those other people hold valid betting operating licences). However, if a track owner is also acting as a betting operator, for example, running pool betting, they will have to have the relevant type of operating licence.

7.43 An application must be made to the relevant licensing authority in the form prescribed in regulations laid down by the Secretary of State or Scottish Ministers, and must be accompanied by:

- the prescribed fee
- the prescribed documents namely a plan of the premises – the plan needs to be to scale, however, a specific scale has not been prescribed.

[17] This is because of the access restrictions placed on tracks by Schedule 6, Part 1 of the Gambling Act 2005 (Mandatory and Default Conditions) Regulations

Plans of premises

7.44 The licensing of premises is primarily a matter for local determination and is something which the Commission is unlikely to comment on, unless it raises matters of wider or national significance. However, there have been a limited number of occasions in which an operator has applied for a variation to a premises licence in which the accompanying plan of the premises has only contained an outline of the licensed premises and the exit points without, for example, the location of the gaming machines and counter. We therefore consider it beneficial, for both licensing authorities and operators, for us to set out the issues involved and our understanding of the options available.

7.45 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (as amended) states that a plan must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

7.46 The Regulation states (other than in respect of a track) '...the plan must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. However licensing authorities may consider that this minimum requirement is not sufficient to satisfy them when determining if the application is in accordance with s.153 principles, namely the licensing objectives, this Guidance and the Commissions' codes of practice – in particular the social responsibility codes – and the licensing authorities' own statement of policy. If the application and accompanying plan are insufficient, the licensing authority should ask for more information from the applicant.

7.47 The premises plan itself is only one means by which the licensing authority may seek reassurance that the requirements will be met. It may be that conditions attached to the premises licence regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices are a more effective method of doing so. Local circumstances and risks, and the layout of a particular premises, will determine what is most appropriate for an individual application.

Notice of application

7.48 The Secretary of State and Scottish Ministers have made regulations[18] requiring the applicant to publish notice of their application and to notify responsible authorities and other persons about the application. These also apply, with one or two modifications, in relation to applications for provisional statements and some ancillary applications that can be made in relation to a premises licence.

7.49 Notice must be given in three ways:

- a notice placed outside the premises for 28 consecutive days in a place where it can be read conveniently
- in a newspaper or newsletter of local relevance, on at least one occasion within ten days of the application being made
- to all responsible authorities, which includes the Commission, within seven days of the application being made.

[18] SI 2007/459: The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007
SSI 2007/196: The Gambling Act 2005 (Premises Licences and Provisional Statements)(Scotland) Regulations 2007

7.50 A licence application, and any licence subsequently issued, is not valid if the relevant notifications have not been made.

Application for Premises Variation (s.187): 'material change'

7.51 Previous guidance from the Department for Culture, Media and Sport (DCMS) and the Commission has been that an application for a variation will only be required where there are material changes to the layout of the premises. What constitutes a material change will be a matter for local determination but it is expected that a common sense approach will be adopted. When considering an application for variations, the licensing authority will have regard to the principles to be applied as set out in s.153 of the Act.

Representations

7.52 In dealing with an application, licensing authorities are obliged to consider representations from two categories of person, referred to in the Act as 'responsible authorities' and 'interested parties'. Representations from other parties are inadmissible. Further information on these categories can be found in Part 8 of this Guidance.

7.53 Having determined that the representation is admissible, the licensing authority must consider its relevance. Only representations that relate to the licensing objectives, or that raise issues under the licensing authority's statement of policy, or the Commission's Guidance or Codes of Practice, are likely to be relevant.

7.54 The licensing authority will also need to consider if representations are 'frivolous' or 'vexatious'. This is a question of fact and licensing authorities are advised to seek help from their legal advisers in interpreting these phrases although relevant considerations may include:

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

7.55 The Commission does not routinely make representations on premises licence applications. However, the fact that the Commission has not made a representation on a particular premises licence application should not be taken as indicating the Commission's approval of that application. Exceptionally, where an application for a premises licence, or the operation of a current premises licence, raises matters of wider or national significance, the Commission will consider making representations or requesting a review.

Making a decision

7.56 As explained earlier, the licensing authority's primary obligation under s.153(1) is to permit the use of premises in so far as it thinks that to do so is:

a. in accordance with any relevant code of practice issued by the Commission
b. in accordance with any relevant guidance issued by the Commission
c. reasonably consistent with the licensing objectives (subject to a. and b. above), and
d. in accordance with the licensing authority's statement of licensing policy (statement of policy) (subject to a. to c. above).

7.57 Further information and guidance as to the meaning and effect of s.153 is set out at paragraph 5.19 above.

Consideration of planning permission and building regulations

7.58 In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, 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. (Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence). This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. Part 11 of this Guidance gives more information about provisional statements.

7.59 As the Court has held in a 2008 case[19], operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if 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.

7.60 For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations[20]. The application form allows the applicant to suggest a commencement date and the notice of grant allows the licensing authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations should be able to comment on the changes made. Part 9 of this Guidance gives more information about licence conditions.

7.61 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either make a fresh application under s.159 or seek an amendment to a detail of the licence under s.187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under s.187 is not possible. For this reason, and while this is a matter of judgement for the licensing authority, the Commission considers it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under s.159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

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[19] *The Queen (on the application of) Betting Shop Services Limited –v- Southend-on-Sea Borough Council* [2008] EWHC 105 (Admin)

[20] SI 2007/459: Premises Licensing and Provisional Statements Regulations
SSI No 196: The Gambling Act 2005 (Premises Licences and Provisional Statements)(Scotland) Regulations 2007

7.62 The local authority will need to be satisfied in any individual case that the completed works comply with the original, or changed, plan attached to the premises licence. Depending upon circumstances, this could be achieved either through physical inspection of the premises or written confirmation from the applicant or surveyor that the condition has been satisfied.

7.63 Requiring the building to be complete before trading commences would ensure that the authority could, if considered necessary, inspect it fully, as could other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, category C and D machines in a licensed FEC must be situated so that people under 18 do not have access to the category C machines. The physical location of higher stake gaming machines in premises to which children have access will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements.

7.64 If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, a licensing authority ought to consider whether – applying the two stage approach advocated above – it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. Licensing authorities may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for an application that the licensing authority did not think was grantable.

7.65 When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Part 8: Responsible authorities and interested parties – definitions

8.1 The Act sets out two categories of organisations and individuals that may feature in applications for and reviews of premises licences, responsible authorities and interested parties.

Responsible authorities

8.2 Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.

8.3 S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

(a) a licensing authority in England and Wales in whose area the premises is wholly or partly situated
(b) the Gambling Commission
(c) the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
(d) the fire and rescue authority for the same area
(e) in England and Wales, the local planning authority, or in Scotland, the planning authority
(f) the relevant authority as defined in s.6 of the Fire (Scotland) Act 2005
(g) an authority which has functions in relation to pollution to the environment or harm to human health
(h) anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
(i) HM Revenue & Customs
(j) any other person prescribed in regulations by the Secretary of State.

8.4 S.211(4) of the Act provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities, within the meaning of s.221(1) of the Water Resources Act 1991, that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated at a time when it is used for licensable activities. This would include:

(a) the Environment Agency in England and Wales or the Scottish Environment Protection Agency in Scotland
(b) the British Waterways Board
(c) the Secretary of State. In practice, this would be the Secretary of State for Transport who acts through the Maritime and Coastguard Agency.

8.5 The Act includes a wide range of responsible authorities to ensure that all relevant regulatory bodies and organisations are made aware of applications for gambling premises licences or other permissions. Equally, a policy of wide dissemination of applications allows responsible authorities to take action under their own legislation and enforcement powers, even if there is no direct role for them in the premises licensing process for gambling.

8.6 The Act contains no obligation on responsible authorities to respond to applications for premises licences. For example, the Commission does not routinely make representations on premises licence applications, although this should not be taken as indicating the Commission's approval of a particular application. Exceptionally, where an application for a premises licence or the operation of a current premises licence raises matters of wider or national significance, the Commission will consider making representations or requesting a review. The Commission may also comment on an application if it has particular observations about an operator.

8.7 Licensing authorities are required to set out their approach to their functions under the Act in their statement of policy. One of those functions is to determine who will be competent to advise them about the protection of children from harm and the principles for determining this must be set out in a separate section in their statement of policy. Licensing authorities should engage fully with the relevant designated body and consult with them on the development of the statement of policy. Further detail can be found in Part 6 at paragraph 6.15 onwards.

8.8 The Secretary of State and Scottish Ministers may prescribe other responsible authorities by means of regulations. For example, Scottish Ministers have prescribed that a responsible authority under the Act includes an enforcing authority under the Fire (Scotland) Act 2005.

Interested parties

8.9 S.158 of the Act defines interested parties. To accept a representation from an interested party, the licensing authority must take the view that the person:

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

Licensing authorities will need to have regard to anything an interested party says about their status to make representations.

8.10 The approach taken by licensing authorities in determining who is an interested party should be dealt with in their statement of policy. As with responsible authorities, regulations require this information to be in a separate section of the statement of policy, as outlined in Part 6 at paragraph 6.18 onwards.

8.11 The following gives further advice on how licensing authorities can determine whether someone is an interested party.

People living close to the premises

8.12 There are a number of factors that licensing authorities should take into account when determining whether a person 'lives sufficiently close to the premises'. These might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

8.13 Relevant factors will depend on the particular application. For example, it is reasonable for a licensing authority to consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

The nature and scope of business interests that could be affected

8.14 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be affected by the premises' under consideration. For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, licensing authorities are reminded that the 'demand test' from previous gambling legislation does not apply under the Act.

8.15 The licensing authority should be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:

- the size of the premises
- the 'catchment' area of the premises, that is, how far people travel to visit the premises
- whether the person making the representation has business interests in that catchment area that might be affected.

People representing those in the above categories

8.16 Interested parties can be people who are democratically elected such as councillors and MPs, as persons representing individuals in the other categories. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

8.17 Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

Part 9: Premises licence conditions

9.1 The Act provides that licences may be subject to conditions in a number of ways:

- they may attach automatically, having been set out on the face of the Act
- they may attach through regulations made by the Secretary of State or Scottish Ministers
- they may be attached to operating and personal licences by the Commission
- they may be attached to premises licences by licensing authorities.

9.2 Conditions may sometimes be general in nature attaching to all licences or all licences of a particular class, or they may be specific to a particular licence.

9.3 Conditions on premises licences should relate only to gambling, as considered appropriate in the light of the principles to be applied by licensing authorities under s.153. Accordingly, if the Commission's *Licence Conditions and Codes of Practice* (LCCP) or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not appropriate to impose the same through conditions on a premises licence.

Conditions and authorisations by virtue of the Act

9.4 The following paragraphs set out specific sections of the Act that provide for conditions to be attached automatically to premises licences, or for authorisations to be granted automatically. The Secretary of State / Scottish Ministers may make regulations requiring these conditions to be set out on the premises licence, and there is no discretion to decide not to include them or to modify them. The table after paragraph 9.18 summarises which sections of the Act apply to which types of premises licences.

S.172 – number of gaming machines

9.5 S.172 provides for premises licences to permit a specified number of gaming machines of particular categories in each type of gambling premises. These permissions are set out in detail in Part 16 of this Guidance.

S.173 – betting on virtual events

9.6 S.173 authorises the holder of a casino premises licence or a betting premises licence to make facilities available for betting on virtual events. This is separate from betting on virtual events by means of a gaming machine. It is intended to cover facilities such as virtual horse and greyhound racing which are person-to-person transactions, involving virtual images that are not displayed on a machine.

S.174 – gambling in addition to casino games

9.7 S.174 authorises the holder of a casino premises licence for a small or large casino to make available the following types of gambling in addition to casino games:

- equal chance games
- betting – but not in pre-2005 Act casinos with grandfather rights and only with a betting operating licence
- bingo – but only in large casinos and only with a bingo operating licence.

9.8 For the purposes of the Act, equal chance games are ones which do not involve playing or staking against a bank and in which the chances are equally favourable to all players. Licensing authorities must not restrict the equal chance gaming available nor prohibit casino games that have not been prohibited by the Commission. Part 17 of this Guidance provides details of the casino games authorised by the Commission.

S.176 – access by children and young persons to casinos

9.9 S.176 requires the Commission to issue at least one code of practice about access to casino premises for children and young persons. In particular, the code must:

- specify steps that the premises licence holder must take to ensure that under-18s do not enter casino premises, including ensuring that each entrance to the casino is supervised by at least one person who is responsible for compliance with the code of practice
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be provided by those seeking to enter the casino or gambling area.

9.10 S.176 makes it a condition of the premises licence that the licensee must comply with the code of practice issued by the Commission. Licensing authorities should note that the requirement under s.176 for supervision at each entrance is separate to any other condition that may be attached relating to 'door supervision' more generally.

S.177 – giving of credit

9.11 S.177 attaches a condition to casino premises licences and bingo premises licences that prohibits the licensee from:

- giving credit in connection with the gambling taking place on the premises
- participating in, arranging, permitting or knowingly facilitating the giving of credit in connection with the gambling on the premises.

9.12 However, s.177 does not prevent the licensee from contracting a third party to install cash dispensers (ATMs) on their premises, which may accept both credit and debit cards. Such an arrangement is subject to requirements that the premises licence holder has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines), does not profit from the arrangement, and does not make any payment in connection with the machines. All premises licences also include a mandatory condition which requires that any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling in order to do so[21].

9.13 S.177 deals with the prohibition of credit in respect of casino and bingo premises licences. However equivalent prohibitions are placed on bingo and casino operating licences, as set out in s.81 of the Act, credit and inducements.

S.178 – door supervision

9.14 If a licensing authority attaches a condition relating to door supervision, and the person carrying out those duties are required by the Private Security Industry Act 2001 (PSIA) to hold a licence, s. 178 of the Gambling Act 2005 prescribes that the requirement under PSIA will be treated as if it were a condition of the premises licence. There is, however, an exemption from the PSIA licensing requirement for in-house employees working as door supervisors at casino and bingo premises, details of which can be found in Part 33 of this Guidance.

9.15 S.178 defines door supervision as requiring someone to be responsible for 'guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage'.

[21] Part 1(5) of The Gambling Act 2005 (Mandatory and Default Conditions) Regulations

S.179 – pool betting

9.16 S.179 provides that a betting premises licence in respect of a track may not authorise pool betting to take place, other than in respect of dog or horse racing and only where the acceptance of bets is by the holder of the betting premises licence, or in accordance with arrangements made by them. In the case of dog racing, this preserves the existing arrangements at dog tracks where the totalisator is operated by or on behalf of the occupier of the track. In the case of horse racing, pool betting can only be made available at racetracks by Betfred following their purchase of the Tote. As part of the sale process Betfred received an exclusive seven year licence (until July 2018) to operate pool betting operations on UK racecourses.

S.182 – access by children and young persons to tracks

9.17 S.182 applies only to a betting premises licences in respect of tracks. It requires the licensee to ensure that children and young persons are excluded from any area in which facilities for betting are provided and from any area where a gaming machine (other than a category D gaming machine) is situated. The exception to this, for betting areas only, is on race days at dog and horse racing tracks, that is on those days when racing occurs or is expected to take place. In those cases, under-18s may have access to betting areas but licensing authorities should note that this exception does not affect the prohibition on betting by children and young persons.

S.183 – Christmas day

9.18 S.183 applies a condition to all premises licences that facilities for gambling must not be provided on Christmas Day, namely the period of 00.01 hours on 25 December until 00.00 hours on 26 December.

Type of premises licence		Section of the Act								
		s.172	s.173	s.174	s.176	s.177	s.178	s.179	s.182	s.183
All premises licences		X					X			X
Bingo premises licence						X				
Casino premises licence			X		X	X				
	Small casinos			X						
	Large casinos			X						
Betting premises licence			X							
Betting premises licence in respect of a track								X	X	

Conditions attached through regulations made by the Secretary of State or Scottish Ministers – all premises

9.19 The Secretary of State and Scottish Ministers have set out conditions to be attached to all premises licences in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and the Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007.[22]

9.20 Conditions under these Regulations fall into two categories:

- mandatory conditions made under s.167 of the Act that must be attached to premises licences
- default conditions made under s.168 of the Act, that attach to the premises licence unless the licensing authority decides to exclude them, using its powers under s.169.

[22] SI 2007/1409: Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
SSI 2007/266: Gambling Act 2005 (Mandatory and Default Conditions(Scotland) Regulations 2007

9.21 Licensing authorities should note that mandatory conditions made under these regulations are set with the intention that no further regulation in relation to that matter is required. Therefore, it is extremely unlikely that licensing authorities will need to impose individual conditions in relation to matters that are already dealt with by mandatory conditions. Licensing authorities should only consider doing so where there are regulatory concerns of an exceptional nature, and any additional licence conditions must relate to the licensing objectives.

9.22 Mandatory conditions applying to all premises licences are set out at paragraph 9.25 onwards. In addition, there are mandatory conditions that relate to particular category of premises licences. Details of these can be found in Parts 17-22 of this Guidance.

9.23 Licensing authorities have more flexibility in relation to default conditions and may exclude a default condition and substitute it with one that is either more or less restrictive. Licensing authorities should note, however, that default conditions are intended to reflect normal industry operating practices. In circumstances where default conditions are excluded, the Commission would generally expect them to be replaced by other conditions, given the requirements of s.153. Where the condition is more restrictive, the licensing authority should ensure that they have clear regulatory reasons doing so.

9.24 Default conditions under the regulations set out above relate to particular categories of premises licence and details can be found in Parts 17-22 of this Guidance.

Mandatory conditions

9.25 The following mandatory conditions apply to all premises licences:

- the summary of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises. In England and Wales this must include a summary of the terms and conditions of the premises licence.
- the layout of the premises must be maintained in accordance with the plan that forms part of the premises licence.
- neither National Lottery products nor tickets in a private or customer lottery may be sold on the premises in England and Wales. Sale of National Lottery and private lottery tickets are prohibited in Scotland.

9.26 There are also mandatory conditions attaching to each type of premises licence controlling access between premises. There can be no direct access between one premises licensed under the Act and another premises licensed under the Act, with the following exceptions:

- between licensed betting premises
- between bingo premises and alcohol-licensed premises/clubs with a club gaming or club machine permit/family entertainment centres (FECs) and tracks
- between tracks and alcohol-licensed premises/clubs with a club gaming or club machine permit/FECs/betting premises and bingo premises
- between FECs and alcohol-licensed premises/bingo halls/clubs with club gaming or club machine permit and tracks.

Default conditions

9.27 S.169 of the Act gives licensing authorities:

- the ability to exclude from premises licences any default conditions that have been imposed under s.168
- the power to impose conditions on premises licences that they issue.

9.28 Licensing authorities should make decisions on conditions on a case-by-case basis, and in the context of the principles of s.153. They must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and this Guidance, or their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

9.29 Licensing authority statements of policy will need to consider the local circumstances which might give rise to the need for conditions. Where there are specific risks associated with a particular locality, the licensing authority might decide to attach conditions to the premises licence to mitigate those risks. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the licensing objectives, and specific conditions may be necessary to address the risk.

9.30 Where there are risks associated with a specific premises or class or premises, the licensing authority may consider it necessary to attach conditions to the licence to address those risks, taking account of the local circumstances.

9.31 Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises (including the locality and any identified local risks) and the type of licence applied for
- fairly and reasonably related to the scale and type of premises
- reasonable in all other respects.

Conditions that may not be attached to premises licences by licensing authorities

9.32 The Act sets out certain matters that may not be the subject of conditions:

- s.169(4) prohibits a licensing authority from imposing a condition on a premises licence which makes it impossible to comply with an operating licence condition
- s.172(10) provides that conditions may not relate to gaming machine categories, numbers, or method of operation
- s.170 provides that membership of a club or body cannot be required by attaching a condition to a premises licence (the Act specifically removed the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
- s.171 prevents a licensing authority imposing conditions in relation to stakes, fees, winnings or prizes.

Part 10: Review of premises licence by licensing authority

10.1 A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application requesting a review from a responsible authority or an interested party (as defined in s.157 and s.158 of the Act). Licensing authorities should note that reviews cannot be delegated to an officer of the licensing authority – the lowest level of delegation permitted is to a licensing sub-committee.

10.2 The 'aim to permit' framework provides wide scope for licensing authorities to review premises licences where there is a potential conflict with the Commission's codes of practice (*Licence Conditions and Codes of Practice* (LCCP)) and this Guidance, the licensing objectives or the licensing authorities own y statement of policy. Whilst the Act does not provide a pre-defined list of issues that might prompt a licence review, it is expected that the licensing authority will have set out its view on local issues and priorities that underpin its approach to regulation in its statement of policy in any event, which might then prompt a review.

10.3 Licensing authorities are expected to act in a manner that is in accordance with the powers set out under the Act. This means that licensing authority actions, including reviews, should be in pursuit of the principles set out in s.153 of the Act or underpinned by reasonable concerns, such as changes to the local environment or resident complaints.

10.4 Licensing authorities might consider it prudent to have constructive discussions with operators about any such concerns, prior to discharging its powers. To this end, the operator might be asked to provide the licensing authority with its own local risk assessment (as provided for under ordinary code 10.1.2 of the LCCP which sets out the controls it has put in place to mitigate risks. The licensing authority has the right to exercise its powers under the Act, if the operator does not offer reasonable or practical suggestions for mitigating risks.

Initiation of review by licensing authority

10.5 S.200 of the Act provides that licensing authorities may initiate a review in relation to a particular premises licence or a particular class of premises licence. Licensing authorities may wish to consider in their scheme of delegations who initiates reviews, and any checking system of that to prevent unwarranted reviews from being conducted.

10.6 In relation to a class of premises, the licensing authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, it is likely that the licensing authority will be acting as a result of concerns or complaints about particular types of premises, which may result in them looking at, for example, default conditions that apply to that category of licence.

10.7 In relation to particular premises, the licensing authority may review any matter connected with the use made of the premises if:

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.

10.8 A formal review would normally be at the end of a process of ensuring compliance by the operator(s) which might include an initial investigation by a licensing authority officer, informal mediation or dispute resolution. If the concerns are not resolved then, after a formal review, the licensing authority may impose additional conditions or revoke the licence.

10.9 The licensing authority must give written notice to the licence holder and responsible authorities that it intends to undertake a review and must also publish notice of its intention to carry out the review. The Gambling Act 2005 (Premises Licences)(Review) Regulations 2007 and the Gambling Act 2005 (Review of Premises Licences)(Scotland) Regulations 2007[23] require the licensing authority to display notice at a place which is as near as reasonably practicable to the relevant premises or where it can be conveniently read by members of the public. The notice must be displayed for no less than 28 consecutive days, starting on the day that the licensing authority gives notice to the holder of the premises licence.

10.10 In addition, the notice must be published **either:**

- in a local newspaper or, if there is none, a local newsletter, circular or similar document within the licensing authority's area, at least once during the period of ten working days from the day on which the licensing authority gives notice to the holder of the premises licence, **or**
- on the licensing authority's internet website for no less than 28 consecutive days, starting on the day that the licensing authority gives notice to the holder of the premises licence.

Application for a review

10.11 S.197 of the Act provides that an application for review may be made by a responsible authority or an interested party, detailed in Part 8 of this Guidance. Such applications must be submitted to the licensing authority in the prescribed form and state the reasons why a review is being requested, together with any supporting information and documents.

10.12 The regulations require the applicant to provide written notice of their application to the premises licence holder and to all responsible authorities, within seven days of making their application. Failure to do so will halt the application process until notice is received by all parties.

10.13 Representations must be made within 28 days, commencing seven days after the date on which the application was received. During these seven days the licensing authority is required to publish notice of the application, as per the process set out in the regulations referred to in paragraph 10.9.

Decision whether to grant an application for a review

10.14 S.199 provides that a licensing authority must grant an application for a review, unless it decides to reject the application under s.198 of the Act. By virtue of s.198, an application may, but need not, be rejected if the licensing authority thinks that the grounds on which the review is sought:

a) are not relevant to the principles that must be applied by the licensing authority in accordance with s.153, namely the licensing objectives, the Commission's codes of practice and this Guidance, or the licensing authority's statement of policy
b) are frivolous
c) are vexatious

[23]SI 2007/2258: Gambling Act 2005 (Premises Licenses) (Review) Regulations 2007
SSI 2007/394: Gambling Act 2005 (Review of Premises Licenses) (Scotland) Regulations 2007

d) 'will certainly not' cause the licensing authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
e) are substantially the same as the grounds cited in a previous application relating to the same premises
f) are substantially the same as representations made at the time the application for a premises licence was considered.

10.15 In the case of e) and f), the licensing authority shall take into account the period of time that has passed since the previous application or representations were made, in deciding whether this is a reasonable basis for not reviewing the licence.

10.16 As licensing authorities are required to permit the use of premises for gambling, insofar as it is in accordance with the s.153 principles, applications that raise general objections to gambling as an activity, that relate to demand for gambling premises, or raise issues relating to planning, public safety, and traffic congestion are unlikely to be considered an appropriate basis for review, leading to rejection under a) above.

10.17 The decision to grant a review must not amount to pre-judging the outcome of a review.

Carrying out a review

10.18 Having given notice of their intention to initiate a review or having decided to grant a review following an application, s.201 of the Act requires the licensing authority to carry out the review as soon as possible after the 28 day period for making representations has passed.

10.19 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence, namely:

- 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 (for example, relating to opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months
- revoke the premises licence.

10.20 In particular, the licensing authority may take the above action 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. Equally, the premises licence holder must only offer the type of gambling that they are permitted to.

10.21 The licensing authority must hold a hearing, unless the applicant and any person who has made representations consent to the review being conducted without one. The licensing authority must have regard to any relevant representations when reviewing the matter, and must have regard to the principles in s.153 of the Act.

10.22 Once the review has been completed the licensing authority must notify its decision as soon as possible 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
- HM Revenue and Customs.

10.23 Rights of appeal are set out in Part 12 of this Guidance.

Part 11: Provisional statements

11.1 S.204 of 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
- expects to acquire a right to occupy.

11.2 Developers may wish to apply for provisional statements before they enter 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. It is also possible for an application for a provisional statement to be made for premises that already have a premises licence, either for a different type of gambling or the same type.

11.3 Whilst applicants for premises licences must hold or have applied for an operating licence from the Commission (except in the case of a track), and they must have the right to occupy the premises in respect of which their premises licence application is made, these restrictions do not apply in relation to an application for a provisional statement.

11.4 In circumstances where an applicant has also applied to the Commission for an operating licence, the Commission will not be able to comment on whether the application is likely to be granted. The licensing authority should not speculate on or otherwise take into account the likelihood of an operating licence being granted in its consideration of the application for a provisional statement.

11.5 An application for a provisional statement must be accompanied by plans and the prescribed fee. Licensing authorities in England and Wales set their own provisional statement fees up to a pre-determined maximum, whereas licensing authorities in Scotland must use the provisional statement fees set by Scottish ministers[24].

11.6 Subject to any necessary modifications, 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.

11.7 Once the premises are constructed, altered, or acquired the holder of a provisional statement can put in an application for the necessary premises licence. A premises licence application for a premises where the applicant already holds a provisional statement for that premises attracts a lower application fee. S.205 of the Act sets out rules on how the authority must treat this application. Licensing authorities should note that, in the absence of a requirement that an applicant for a provisional licence must have the right to occupy the premises, there may be more than one valid provisional statement in respect of the same premises.

11.8 If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises.

11.9 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.

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[24] SI no. 479: The Gambling (Premises Licence Fees) (England and Wales) Regulations 2005
SSI no. 197: The Gambling (Premises Licence Fees) (Scotland) Regulations 2005

11.10 In addition the licensing 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 way of representations at the provisional licence stage
- which, in the authority's opinion, reflect a change in the operator's circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.

11.11 S.210 of the Act, which applies to both premises licences and provisional statements, makes it clear that a licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

Part 12: Rights of appeal and judicial review

12.1 This Part deals with appeals relating to premises licensing and other decisions by licensing authorities. Information about appeals against decisions made by the Commission can be found on the website www.gamblingcommission.gov.uk. Licensing authority decisions may also be subject to judicial review.

Giving reasons for decisions

12.2 It is a requirement of the Act that a licensing authority gives reasons for a rejection of an application[25] but it is good practice for reasons to be given in relation to all decisions.

12.3 A failure to give reasons may result in an appeal of the decision or the suggestion that the licensing authority did not have regard to all the relevant information when making its decision, in line with its obligation under s.153 of the Act. It is particularly important that reasons should reflect the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons for decisions should be made available to all of the parties of any process.

Premises licences

12.4 Details relating to appeals against decisions by a licensing authority are set out in s.206-209 of the Act. These relate to decisions made under Part 8 of the Act, namely:

- applications for a premises licence,
- applications to vary or transfer a premises licence,
- applications for provisional statements,
- reviews of premises licences, either at the licensing authority's instigation or following an application.

Who can appeal

12.5 The table below identifies who can appeal different types of premises licence decisions.

Type of decision	Section of Act	Who may appeal
Decision to reject an application for a premises licence or to vary a premises licence, or an application for a provisional statement	s.165, s.187 and s.188	• The applicant
Decision to grant an application for a premises licence or to vary a premises licence, or an application for a provisional statement	s.164, s.187 and s.188	• The applicant* • Any person who made representations on the application
Decision to take action or to take no action following a review	s.202	• The applicant • Any person who made representations on the application • The person, if any, who applied for the review • The Commission
A decision to take action or make a determination in relation to a transfer application	s.188(4) or (5)	• The licensee • The applicant for transfer

* The applicant may appeal, even though the application was granted, for example, because they consider that conditions attached to the licence are too onerous.

[25] For example, Schedule 8 of The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 prescribes the form of notice that must be given when an application is rejected, which includes the reasons for rejection

Who to appeal to

12.6 An appeal against a decision of a licensing authority in England and Wales has to be made to the Magistrates' Court for the local justice area in which the premises concerned are situated. In Scotland, the appeal is made to the local Sheriff court in the Sheriffdom in which the premises are situated.

12.7 There is a further right of appeal from the Magistrates' Court to the High Court in England and Wales and from the Sheriff to the Court of Session in Scotland.

How to appeal

12.8 To begin an appeal, the appellant must give notice of their appeal within 21 days of their having received notice of the relevant decision. During that period, and until any appeal that has been brought has been finally determined, a determination or other action by the licensing authority will not have effect unless the licensing authority so directs.

12.9 If the licence holder or the person who made the application appeals, the licensing authority will be the respondent. If the appeal is made by someone else, then the licence holder/applicant will be a respondent to the appeal along with the licensing authority.

Determination and outcome of appeals

12.10 In considering an appeal, the Magistrates' Court or Sheriff may review the merits of the decision on the facts and consider points of law, in conjunction with the evidence. In making their decision they will have regard to the licensing authority's statement of policy, this Guidance and relevant codes of practice (*Licence Conditions and Codes of Practice* (LCCP)) issued by the Commission and the licensing objectives.

12.11 In deciding the appeal, they may:

- dismiss the appeal
- substitute the decision with any other decision that could have been made by the licensing authority
- remit the case back to the licensing authority to deal with the appeal in accordance with the direction of the Court/Sheriff.

12.12 The Court or Sheriff may also make such order for costs, but will consider guidance and legislation about the awarding of costs against a public body.

Implementing the appeal decision

12.13 As soon as the appeal decision has been notified to all parties, licensing authorities should not delay its implementation. Standing orders should, therefore, be put in place that necessary action is taken immediately on receipt of the decision, unless ordered by the Court/Sheriff or a higher court to suspend such action, for example as a result of a judicial review.

Permits

12.14 The process for appealing a decision in relation to a permit is set out in the relevant Schedules of the Act, as detailed below. In each case, the appeal should be made to the local Magistrates' court in England and Wales or to the Sheriff court in Scotland, and must be made within 21 days of receipt of notice of the decision.

12.15 In considering the appeal, the court or Sheriff will take into account whether the licensing authority had regard to its statement of policy, this Guidance and codes of practice published by the Commission, and the licensing objectives.

Schedule 10 – family entertainment centre (FEC) gaming machine permits

12.16 Schedule 10, paragraph 22 sets out the processes for appeals for FEC gaming machine permits. The applicant or holder of a permit may appeal if the licensing authority has:

- rejected an application for a permit or renewal of a permit
- given notice that the premises are not being used as an FEC
- stated that the holder is incapable of carrying out an FEC business by reason of mental or physical incapacity.

12.17 The Magistrates' court or Sheriff may dismiss the appeal, substitute any decision that the licensing authority could have made or restore a permit. They may also remit the matter back to the licensing authority to decide in accordance with any determination they make, in which case the same rights of appeal will apply, as for the original decision. The court or Sherriff may also make an order for costs.

Schedule 11 (Parts 4 and 5) – small society lotteries

12.18 Schedule 11, paragraph 51 sets out the processes for appeals for small society lotteries. In England and Wales, the Act states that local authorities register societies to run lotteries rather than licensing authorities, and in Scotland such decisions are made by the licensing board. A society may appeal if their application for registration is refused or their registered status is revoked.

12.19 In considering an appeal, the Magistrates' court or Sheriff may uphold the licensing authority's decision, reverse it, or make any other order. If remitting the decision back to the authority, the same rights of appeal will apply as for the original decision.

Schedule 12 – club gaming permits and club machine permits

12.20 Schedule 12, paragraph 25 sets out the process of appeal for club gaming permits and club machine permits. If the authority rejects an application for the issue or renewal of a permit, the applicant may appeal. If the authority cancels a permit, the holder of the permit may appeal. A person who made an objection to the grant of the permit, or made representations in relation to the cancellation of a permit, may appeal against a grant or refusal to cancel respectively.

12.21 The authority may only refuse an application on one or more of the following grounds:

(a) (i) for a club gaming permit: the applicant is not a members' club or miners' welfare institute
(ii) for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
(b) the premises are used by children or young persons
(c) an offence or a breach of a condition of the permit has been committed by an applicant
(d) a permit held by an applicant has been cancelled during the last ten years
(e) an objection has been made by the Commission or local chief officer of police.

12.22 The authority may only cancel a permit on one of the following grounds:

(a) the premises are used wholly or mainly by children or young persons
(b) an offence or breach of condition of the permit has been committed in the course of gaming activities.

12.23 In considering an appeal, the court will determine whether any of these statutory grounds applied in the circumstances. In addition, the court will take into account any objections made by the Commission or local police chief and the considerations at paragraph 12.15.

12.24 In England and Wales only, there is a fast track application procedure (set out in Schedule 12(10)) for holders of a club premises certificate that is issued under s.72 of the Licensing Act 2003. In these circumstances, the Commission and police do not have to be consulted and therefore the authority will not receive any objections. The permit **must** be granted unless:

- the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming, other than gaming of a prescribed kind
- the applicant is established or conducted wholly or mainly for the purposes of the provision of facilities for gaming of a prescribed kind and also provides facilities for gaming of another kind
- a club gaming permit or club machine permit issued to the applicant has been cancelled during the period of ten years ending with the date of the application.

There is no equivalent provision for clubs in Scotland under the Licensing (Scotland) Act 2005.

12.25 The Commission is aware that this fast track procedure has been used inappropriately by applicants to avoid full scrutiny of applications and licensing authorities should pay particular attention to such applications.

12.26 On an appeal, the court or Sheriff may dismiss the appeal, substitute any decision that the licensing authority could have made, restore a permit, or remit it back to the authority to decide in accordance with a determination of the court, where the same rights of appeal will apply as for the original decision. They can also make an order for costs.

Schedule 13 – licensed premises gaming machine permits

12.27 Schedule 13, paragraph 21 sets out the appeal process for licensed premises gaming machine permits, which only apply to England and Wales. The Scottish Government has set regulations[26] on permits for alcohol-licensed premises in Scotland. An applicant for a permit may appeal if the application is rejected. The holder of a permit may appeal if he is permitted fewer or a different category of machines than applied for, or if the licensing authority gives a notice which cancels or varies the entitlements of the permit.

12.28 On an appeal, the Magistrates' court can dismiss the appeal, substitute any decision that the licensing authority could have made, restore a permit, or remit it back to the authority to decide in accordance with a decision of the court, where the same rights of appeal will apply as for the original decision. An order for costs can be made.

Schedule 14 – prize gaming permits

12.29 Schedule 14, paragraph 22 sets out the appeal process for prize gaming permits. If the licensing authority rejects an application for the issue or renewal of a permit, the applicant may appeal.

12.30 On an appeal, the Magistrates' court or Sheriff may dismiss the appeal, substitute any decision that the licensing authority could have made, or remit it back to the authority to decide in accordance with a determination of the court, where the same rights of appeal will apply as for the original decision. They can also make an order for costs.

[26] SSI no. 505: The Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007

Temporary use notices

12.31 Appeals in relation to temporary use notices are dealt with in s.226 of the Act, which gives both the applicant and any person entitled to receive a copy of the notice (that is the Commission, local chief of police and HM Revenue & Customs), the right of appeal to the Magistrates' court or Sheriff. Appeals must be made within 21 days of receiving notice of the licensing authority's decision. If the appeal is against the decision of the authority not to issue a counter-notice, then the person giving notice must be joined with the licensing authority as a respondent in the case.

12.32 The Magistrates' court or Sheriff may dismiss the appeal, direct the authority to take specified action, remit it back to the authority to decide in accordance with a decision of the court, with the same rights of appeal as applied to the original decision, and may make an order for costs.

12.33 There is no stay of proceedings in relation to temporary use notices, as there is in relation to applications under Part 8 of the Act. However, the Commission would expect an appeal to be heard before the temporary use notice would otherwise take effect.

Judicial review

12.34 Any party to a decision may apply for judicial review if they believe that the decision taken by the licensing authority is:

- illegal – that is beyond the powers available to the licensing authority
- subject to procedural impropriety or unfairness – which is a failure in the process of reaching the decision, such as not observing the rules of natural justice
- irrational – where a decision is so unreasonable that no sensible person could have reached it (in effect, 'perverse' or 'Wednesbury' unreasonable).

12.35 For an application to succeed, the application must show that:

- the applicant has sufficient standing to make that claim
- the actions of the reviewed licensing authority give grounds for review.

However the remedy is a discretionary one and the Court may decline judicial review if, for example, it considers that the applicant has an alternative remedy which is more appropriate to pursue, such as a right of appeal, or has a private law claim against the defendant.

12.36 The applicant can ask the Court to grant a number of orders. A mandatory order compels the reviewed body to do something; a prohibitory order compels it to refrain from doing something; a 'declaration' sets out the court's view on the legality of a particular course of action; and a quashing order nullifies a decision and remits it for reconsideration. In addition, the applicant can seek an injunction (interdict in Scotland) which is, in practice, similar to a mandatory or a prohibitory order.

Part 13: Information exchange between the Commission and licensing authorities

Underlying principles

13.1 Shared regulation depends on effective partnerships and collaboration. The exchange of information between the Commission and licensing authorities is an important aspect of that and to the benefit of both. Licensing authorities play a particular role in sharing information about gambling activity at a local level, which is important for the Commission's overarching view of gambling activity, not least because that enables the Commission to identify risks and feed information and intelligence back to licensing authorities. It also enables the Commission to fulfil its duty to advise the Secretary of State about the incidence of gambling and the manner in which it is conducted.

13.2 The Commission has access to a wide pool of intelligence which it is able to make available to licensing authorities upon request, to support them in carrying out their regulatory responsibilities under the Act. The Commission understands the importance of this in avoiding the risk of duplication or over-regulation and in maximising the efficient use of resources. In a similar manner, the Commission will draw upon the intelligence and insights of its regulatory partners to resolve specific issues. There have been a number of instances where there has been successful joint working to address concerns linked to a particular operator.

Information licensing authorities provide to the Commission

13.3 S.29 of the Act entitles the Commission to seek information from licensing authorities, and places an obligation on authorities to comply with its information requests, providing the information is:

- part of a register maintained by the licensing authority
- in the licensing authority's possession in connection with a provision of the Act.

Premises data

13.4 The Act requires licensing authorities to maintain data on premises licences. As part of the application process for a premises licence, applicants will forward notice of the application to the Commission, and licensing authorities should subsequently notify the Commission of the outcome of each application, whether it is granted or refused. The Act also requires licensing authorities to notify the Commission of other matters such as when a licence has lapsed or been surrendered, and the cancellation of certain permits and registrations. Under s.29 of the Act, the Commission has identified further information requirements that it is necessary for licensing authorities to provide, which form part of the licensing authority return.

13.5 It is important that the Commission's national data set for premises licences is accurate, as it is used for conducting national compliance work. Accuracy also reduces the need for the Commission to request ad hoc information on particular premises from the licensing authorities, which is time consuming and resource intensive. The Commission will ask licensing authorities to periodically review the premises register to ensure it is up-to-date.

13.6 The Commission may make observations and representations on the suitability of the applicant for a premises licence or any other aspect of the application. In such cases, the Commission and licensing authority will discuss matters pertaining to the application and the appropriate action to take. More information on the Commission's role as a responsible authority and its involvement in individual premises licence applications is given in Part 8 of this Guidance.

13.7 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

Returns

13.8 All licensing authorities are required to submit returns to the Commission on an annual basis, providing information on licensed gambling activity and details of compliance and regulatory work undertaken. This includes details of permits and notices issued, premises inspections conducted, and reasons for and outcome of licence reviews. The fees that are charged by licensing authorities are intended to cover the costs of administration which includes the costs of collecting, maintaining and providing data.

13.9 The annual return is included in the Single Data List that has been issued by the Department for Communities and Local Government (DCLG). The List is a catalogue of all the datasets that local government must submit in any given year to central government and such organisations as the Commission.

13.10 The returns are an important source of information and can assist both the Commission and the licensing authorities in improving their work as risk based regulators. The returns provide the Commission with details of licensing authority compliance and regulatory work. The Commission analyses and publishes a licensing authority statistics report each year which helps identify risks and prioritise work.

13.11 The Commission will minimise the burden imposed on licensing authorities by keeping its data requests to an absolute minimum. The data requirements will be kept under review to ensure that any data requests have a clear and valid regulatory purpose.

13.12 It is essential that licensing authorities ensure that all returns are completed and submitted to the Commission in a timely manner. The Commission would expect the licensing authority to notify it in the event that it is unable to meet a submission deadline. Failure on behalf of a licensing authority to submit the required information could lead to the escalation of the matter with senior personnel in the licensing authority including the Head of Service and Chief Executive.

Summary of information requirements

Licensing function	Event requiring information to be sent to Commission
Premises licences and provisional statements	Licensing authority has granted / rejected an application for a premises licence or provisional statement
	A premises licence has lapsed
	Licensing authority has granted or rejected an application to reinstate a premises licence
	Licensing authority has granted or rejected an application to transfer or vary a premises licence
	A review of a premises licence has been completed and a decision made
	A hearing is to be held where the Commission has made a representation
	A premises licence has been surrendered / revoked
Club permits	A club permit application has been granted / rejected
Small society lottery registration	Licensing authority registers a society to operate small lotteries
	Licensing authority cancels a society's registration to operate small lotteries
	Where a society has exceeded the permitted proceeds for small lotteries
Issue of permits and temporary permissions	Licensing authority returns
Inspections and reviews	Licensing authority returns

Other licensing authority information requirements

13.13 Licensing authorities are also required to maintain the following information[27]:

- small society lotteries: licensing authorities are required to record details of the lottery on a register and to notify both the applicant and the Commission of this registration
- club gaming permits: when they either grants or rejects an application for a club gaming permit they are required to inform both the applicant and the Commission.

13.14 There are a range of statutory application forms and notices that licensing authorities are required to use as part of their gambling licensing responsibilities. A summary list of these can be found in Appendix E. The forms and notices can be downloaded from the Commission's website.

13.15 Licensing authorities provide advice to those who make enquiries to them, about the legal responsibilities involved in providing premises or holding permits for gambling, whether or not they currently hold a licence or a permit.

13.16 Licensing authorities should feel free to signpost enquiries relating to operating or personal licences to the Commission.

[27] Schedule 11, Part 5, para 44 of the Gambling Act 2005

Information the Commission makes available to licensing authorities

13.17 The Commission is required under s.106 of the Act to maintain a register of operating licence holders and make this publicly available. Where a licensing authority needs to check if an applicant for a premises licence holds an operating licence, verification can be found on the edited register on the Commission's website.

13.18 The Commission will inform the relevant licensing authorities of any changes to operating licences that may have an impact on the status of related premises licences. Licensing authorities will be periodically advised where an operator is no longer licensed.

Local Authority Compliance Events (LACE)

13.19 In order to make the system of shared regulation as effective and efficient as possible, the Commission notifies licensing authorities of complaints and intelligence received regarding non-compliance and illegality in their geographical area which is primarily of a localised nature. These are referred to as Local Authority Compliance Events (LACE). The responsibility for the LACE referral is then discharged from the Commission to the licensing authority. Licensing authorities are requested to advise the Commission of what, if any action is taken.

13.20 The complaints that instigate the LACE referrals come from a variety of sources including licensed operators and members of the public. A number of them are received anonymously via the Commission's intelligence line.

Other information

13.21 The Commission makes other information available to licensing authorities through a range of sources including the LA Bulletin, training events and forums. Further details are set out in Part 3 at paragraphs 3.6 onwards.

Part 14: Temporary use notices

14.1 It is an offence to provide facilities for gambling unless either the required permissions are in place, or an exemption applies. One such exemption is for the holder of an operating licence to notify a Temporary Use Notice (TUN) to the relevant licensing authority. This is not a permanent arrangement, but allows premises such as hotels, conference centres or sporting venues to be used temporarily for providing facilities for gambling. A TUN may also apply to a vessel, whether moored or moving. TUNs are often, but not exclusively, used to run poker tournaments.

14.2 The primary legislation in respect of TUNs can be found at s.214-234 of the Act. This sets out the nature and form of the notice to be given by the operator; other bodies to be informed (including the Commission); objections and appeals; and instructions to the licensing authority concerned.

14.3 Secondary legislation – Gambling Act 2005 (Temporary Use Notices) Regulations 2007[28] – sets out the restrictions on the type of gambling to be offered under a TUN. These restrictions are:

- it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both
- gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner
- gaming machines may not be made available under a TUN.

14.4 In relation to tournaments, the requirement that the gaming is 'intended to produce a single overall winner' does not restrict the gaming to only one winner through the course of the tournament, although there will ultimately be one final tournament winner. It is considered acceptable for each qualifying round of the tournament; (for example comprising several hands/games of poker) to produce a single overall winner of that qualifying round, whose prize may be the right to progress to the next stage in the tournament. There can also be additional competitions run alongside or leading up to the main event, provided that each of these also only provides one winner. Further information on Poker is set out in Part 29.

14.5 Cash games are games where each hand provides a winner and are not permitted under a TUN.

Procedure

14.6 The holder of an operating licence must give notice to the licensing authority in whose area the premises are situated. The Secretary of State has prescribed the form of the notice which must specify information including:

- the type of gaming to be carried on
- the premises where it will take place
- the dates and times the gaming will take place
- any periods during the previous 12 months that a TUN has had effect for the same premises
- the date on which the notice is given
- the nature of the event itself.

[28] SI 2007/3157: Gambling Act 2005 (Temporary Use Notices) Regulations 2007

14.7 A TUN must be lodged with the licensing authority not less than three months and one day before the day on which the gambling event will begin. A fee is payable to the licensing authority to whom the notification is sent. The application must be copied to:

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

14.8 The person who is giving the TUN must ensure that the notice and copies are with the recipients within seven days of the date of the notice. If these requirements are not met, then the event will be unlawful. Where the premises are situated in an area covered by more than one authority, the person giving notice must send the notice to one authority and copy to the other(s). Licensing authorities will have to work closely together in such circumstances to ensure that the 21-day maximum period for TUN is not breached.

14.9 When the licensing authority receives a notice, it must send a written acknowledgement as soon as is reasonably practicable.

Meaning of premises

14.10 S.218 of the Act refers to a 'set of premises' and provides that a set of premises is the subject of a TUN if 'any part' of the premises is the subject of a notice. The reference to 'a set of premises' prevents one large premises from having a TUN in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock. Note that this definition of a 'set of premises' differs to 'premises' in Part 8 of the Act (see Part 7 of this Guidance).

14.11 The definition of 'a set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition, licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. For example, a large exhibition centre with a number of exhibition halls may come within the definition of 'premises'. A TUN should not then be granted for 21 days in respect of each of its exhibition halls. In relation to other covered areas, such as shopping centres, the licensing authority will need to consider whether different units are in fact different 'sets of premises', given that they may be occupied and controlled by different people.

14.12 A notice may be given in respect of a vessel, but only if it is a passenger vessel or a vessel that is situated at a fixed place. A vessel at a fixed place would include a structure on water that is not intended to be able to move (such as an oil rig, or an artificially constructed island in the middle of a lake). S.231 lists responsible authorities who must be notified in relation to giving notice in respect of a vessel.

14.13 A TUN may not be given in respect of a vehicle.

Objections to TUNs

14.14 The licensing authority and the other bodies to which the notice is copied should consider whether they wish to give a notice of objection. In considering whether to do so, they must have regard to the licensing objectives and if they consider that the gambling should not take place, or only with modifications, they must give a notice of objection to the person who gave the TUN. Such a notice must be copied to the licensing authority. The notice of objection and the copy to the licensing authority must be given within 14 days, beginning with the date on which the TUN is given. An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.

14.15 Licensing authorities should have procedures in place to ensure that such notices are considered without delay so that, where appropriate, the opportunity to lodge an objection is not missed.

14.16 If objections are received, the licensing authority must hold a hearing to listen to representations from the person who gave the TUN, all the objectors and any person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.

14.17 Those who raise objections may propose modifications to the notice that will alleviate their concerns. Remedies may include a reduction in the number of days when gambling occurs or a restriction on the type of gambling permitted. If the modifications are accepted by the applicant, a new TUN must be given, incorporating the modifications, and the original notice will be treated as withdrawn. This withdrawal will be without prejudice to the right of any other person other than the objector to give notice of objection in relation to the new notice. The three-month time limit and fee will not apply to the new notice. The person who made the original objection and proposed the modification may not object to the new notice, but others to whom it is copied may object. If there are no new objections, there will be no need for a hearing.

14.18 If the licensing authority considers that the TUN should not have effect – after a hearing has taken place or has been dispensed with – it must issue a counter-notice which may provide for the TUN:

- not to have effect
- to have effect only in respect of a specified activity
- to have effect only in respect of activity carried on during a specified period of time or at specified times of day
- to have effect subject to compliance with a specified condition.

14.19 The principles that the authority must apply in issuing a counter-notice are the same as those in determining premises licence applications. In particular, the licensing authority should aim to permit the provision of facilities for gambling under a TUN subject to its view as to whether to do so accords with the Commission's *Licence Conditions and Codes of Practice*, this Guidance and the licensing authority's statement of policy, and is reasonably consistent with the licensing objectives.

14.20 If the licensing authority gives a counter-notice, it must give reasons for doing so and must copy the counter-notice to all those who received copies of the TUN.

14.21 If the licensing authority decides not to issue a counter-notice, the TUN will take effect. The licensing authority must give notice of its decision to the person who gave the TUN and to others to whom it was copied.

Appeals

14.22 An appeal against the licensing authority's decision may be made by the applicant, or any person entitled to receive a copy of the TUN, to the Magistrates' court or Sheriff court within 14 days of receiving notice of the authority's decision. There is a further right of appeal to the High Court or Court of Session on a point of law.

Endorsement of the notice

14.23 If no objections are made within 14 days of the date of the notice, the licensing authority must endorse the notice as valid and return it to the person who gave it. If the endorsed copy of the notice is lost, stolen or damaged, the person who gave the notice may request a new endorsed copy from the licensing authority, subject to the payment of a fee.

14.24 S.228 of the Act sets a time limit for the completion of all proceedings on TUN of 6 weeks beginning with the date on which the TUN is received. This includes considering whether to give a notice of objection; holding a hearing if necessary, giving a counter-notice, or giving a notice of determination.

14.25 The person who gives a TUN may notify the licensing authority that it is withdrawn at any time up to and during the time it has effect. In those circumstances the notice will have no effect, and any unlapsed period of time will not count towards the 21-day maximum for a TUN having effect on the premises.

Displaying the notice

14.26 While the gambling is taking place, a copy of the TUN must be displayed prominently on the premises. It is an offence not to produce the notice endorsed by the licensing authority when requested to do so by a constable, an officer of HM Revenue and Customs, an enforcement officer, or an authorised local authority officer.

Maximum period

14.27 If the premises have been the subject of one or more TUN for more than a total of 21 days in the past 12 months, the licensing authority must issue a counter-notice that has the effect of stopping the TUN coming into effect. The format of counter notices are prescribed by either the Secretary of State or Scottish Ministers[29]. Failure to comply with the counter-notice will be an offence. A licensing authority may issue a counter-notice which limits the number of days that the TUN comes into effect, bringing it within the 21-day limit. Such counter-notices require consultation with the applicant to ensure that the restrictions they impose do not result in an unworkable event.

Large events

14.28 Licensing authorities may receive TUNs from a high profile operator such as a casino, to hold an event in a larger venue (eg a stadium or an arena). In these circumstances operators may seek to use technology, such as tablet devices, to the meet demands of hosting an event at such a venue. It is possible that operators will need to hold a remote operating licence to operate certain devices and licensing authorities are encouraged to contact the Commission for further advice and guidance.

[29] SI 2007/3157: Gambling Act 2005 (Temporary Use Notices) Regulations 2007

Part 15: Occasional use notices

15.1 S.39 of the Act provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN) without the need for a full premises licence[30]. The intention behind OUNs is to permit licensed betting operators with appropriate permission from the Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature (the OUN dispenses with the need for a betting premises licence for the track in these circumstances). An OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The following should be noted in relation to an OUN:

- OUNs can only be relied upon for 8 days or fewer in a calendar year and therefore licensing authorities should keep a record of the number of notices served in relation to each track. The period of 8 days applies to the venue and not the individual who has submitted the notice
- an OUN must be submitted for each day that betting activity will be conducted on the premises. If betting activity is to be held over a period of 8 consecutive days, the operator will be required to submit 8 separate notices
- the notice must specify the day on which it has effect. An event running past midnight and ending on the following day accounts for 2 occasional use days, even though in practice it is one event
- no objection or counter notice (refusal) is possible unless the maximum number will be exceeded
- notice must be given to the licensing authority and the police, in writing, before the event starts
- no premises licence can exist for the place which is the subject of the notice
- land can be used temporarily as a track, for example for a point-to-point race, provided that sporting events or races take place there. There is no need for a track to be permanently established.

What constitutes a track

15.2 While tracks are normally thought of as permanent racecourses, authorities should note that the meaning of 'track' in the Act covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place (s.353(1)). The Commission's Guidance relating to tracks is contained in Part 20 of this document.

15.3 This means that land which has a number of uses, one of which fulfils the definition of track, can qualify for the occasional use notice provisions, for example agricultural land upon which a point-to-point meeting takes place.[31] 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.

Use (and misuse) of OUNs

15.4 The Commission is aware of some instances of the apparent misuse of OUNs, by the arrangement of a contrived sporting event at a premises solely in order to apply for an OUN and to permit betting on premises where it would not normally be allowed.

[30] The Secretary of State has the power to increase or decrease the number of occasional use notices that an operating licence holder could apply for each calendar year. 'Day' is defined as midnight to midnight, so an event that starts on one calendar day and ends on the following day would count as two days

[31] The point to point and hunter race chase calendar lists each fixture, and is a useful tool for licensing authorities to check that they are being notified of all possible OUNs

Whilst the Commission has not introduced a new licence condition limiting the betting to bets on the outcomes of a race, competition or other sporting event taking place at the track in question whilst the OUN is in force, the situation will be kept under review.

15.5 OUNs may not be relied upon for more than eight days in a calendar year, which relates to a calendar year starting 1 January and not to any period of 12 months. The Secretary of State has the power to increase or decrease the number of OUNs that are permitted, but there are currently no plans to use this power.

15.6 Non-commercial, fund raising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

Procedure

15.7 Licensing authorities and track operators and occupiers should note that the processes set out in the Act for applying for an OUN are different to those for Temporary Use Notices (TUNs).

15.8 The notice must be served on the licensing authority and copied to the chief officer of police for the area in which the track is wholly or partly located. The notice must specify the day on which it has effect. Notices may be given in relation to consecutive days, so long as the overall limit of 8 days is not exceeded in the calendar year.

15.9 Provided that the notice will not result in betting facilities being available for more than 8 days in a calendar year, there is no provision for counter-notices or objections to be submitted.

15.10 The Act does not require the applicant or the licensing authority to notify the Commission that an OUN has been given. However the Commission does require licensing authorities to submit returns showing how many OUNs were received during each year (see also Part 13).

15.11 It should be noted that betting operators cannot provide gaming machines at tracks by virtue of an OUN.

Part 16: Gaming machines

16.1 This part of the Guidance describes the categories of gaming machine and the number of such machines that may be permitted in each type of gambling premises as set out in the Act. Licensing authorities should note that the term 'gaming machine' now covers all machines on which people can gamble – subject to the exceptions below – and the term has been preserved in the Act, because it is one that is readily understood.

16.2 S.235(1) of the Act sets out the definition of a gaming machine. The definition is wider than those included in previous gambling legislation and covers all types of gambling activity that can take place on a machine, including betting on virtual events. However, the following should be noted:

- there remains a distinction between skill machines and gaming machines, in that skill machines are unregulated
- S.235(2) contains important exemptions for equipment that is not to be considered a gaming machine, even when gambling can be performed on it – for example, a home PC is not classed as a gaming machine, even though someone could access remote gambling facilities on a home PC.

16.3 Specific guidance on machines that are exempt is set out later in this part of the Guidance, although licensing authorities should take legal advice or contact the Commission directly if they have concerns about the precise legal status of equipment being used on premises.

16.4 The Commission is responsible for licensing manufacturers and suppliers of gaming machines and advises operators to obtain machines from Commission-licensed suppliers. Similarly, permit holders and those applying for permits for clubs, alcohol-licensed premises or family entertainment centres will also be advised through Commission guidance to obtain gaming machines from Commission-licensed suppliers.

16.5 The Commission has set Gaming Machine Technical Standards relating to the way in which each category of machine will operate[32]. The Commission has also set out a testing strategy that details the testing arrangements for each category of machine[33]. The Commission has the power to test gaming machines, both before they are supplied and when in operation in premises, to ensure that they are operating as advertised.

16.6 In order for a premise to site gaming machines some form of authorisation is normally required. Typically this is:

- an operating licence from the Commission and a gambling premises licence from a licensing authority or
- an alcohol premises licence from a licensing authority or
- a gaming machine permit from a licensing authority.

16.7 Depending on the authorisation, there are limits placed on the category of machines that can be sited and, in some cases, on the number of machines that can be made available for use**.**

16.8 If a licensing authority has concerns relating to the manufacture, supply, installation, maintenance or repair of gaming machines, or the manner in which they are operating, it should contact the Commission.

[32] The Gaming Machine Technical Standards
[33] The Gaming Machine testing strategy

16.9 S.172 of the Act prescribes the number and category of gaming machines that are permitted in each type of gambling premises licensed by authorities. Neither the Commission nor licensing authorities have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by licensing authorities. Machine limits are summarised at Appendix A of this Guidance.

Categories of gaming machine

16.10 Regulations define four categories of gaming machine (as per s.236 of the Act): categories A, B, C and D, with category B divided into a further five subcategories. The categories and sub-categories have been defined according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. Gaming machines which are *capable* of being used as a gaming machine, whether or not they are currently operating as a gaming machine, are classified as a gaming machine. For example a machine fitted with a compensator, which allows it to be converted from a skill machine is classified under s.235 of the Act as a gaming machine. Appendix B provides a breakdown of machine categories and entitlements, and Parts 22 and 24 of this Guidance provides further details around machines in licensed and unlicensed family entertainment centres (FECs).

Age restrictions

16.11 There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

Maximum number of machines by premises type

16.12 The maximum number of machines permitted, and in the case of casinos the ratios between tables and machines, is set out by premises type in Appendix A, and includes premises with permit entitlements, as well as licensed premises. Further detail about machine entitlement and where gaming machines may be played is also provided in this Guidance in the Parts relating to each of the individual type of premises.

Multiple activity premises

16.13 It is not unusual for different licensed activities to take place within an area, such as a track or holiday park, with those licensed activities attracting different machine entitlements. For example, an area could include FECs, adult gaming centres (AGCs) and bingo, whilst also having an alcohol licence.

16.14 It is worth checking, from the plans and a site visit, that the gaming machine entitlements are not being exceeded, and that appropriate signage to prevent unlawful entry is in place where applicable.

16.15 It may be necessary to determine, if an area shown in the plan as part of the ‘club’ premises is separated from another with an alcohol premises licence, that the machines intended to be made available in each part are within the respective, allowable limits. Part 25 of this Guidance provides greater detail on the requirements for clubs and Appendix A provides details of the machine entitlements and gaming activities for clubs.

The meaning of 'available for use'

16.16 S.242 of the Act makes it an offence to a person to make a gaming machine available for use, where they do not hold an operating licence or other permission covering gaming machines and where no other exemption applies.

16.17 The Act does not define what 'available for use' means, but the Commission considers that a gaming machine is 'available for use' if a person can play it. It follows that more than the permitted number of machines may be physically located on a premises, provided the operator has a system in place that ensures no more than the permitted number are 'available for use' at any one time. The operator must control this system. If a customer is able to put a machine into use – for example, by switching it on at the mains or simply removing a notice on the screen – it will be considered as available for use.

16.18 If there is more than one player position – that is two or more people can play a gaming machine simultaneously – then the machine counts as two or more machines[34]. An appropriate system may be operator control of the power supply for machines of a certain category, which is not accessible to players, so that only one machine can be played.

16.19 If an operator does wish to put more than the permitted number of machines in a public area, the onus will be on the operator to demonstrate that no more than the permitted number of machines are 'available for use' at any one time.

16.20 A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines 'available for use' at a higher category until it switches to that category. However, the operator must also have a system in place for these machines which ensures no more than the permitted number are 'available for use' at any one time.

16.21 The Commission permits systems in which a number of machines are networked so that the player can select which game and category they play at, but which adhere to any restrictions on the number of machines at a certain category.

16.22 The Commission has published a separate advice note on 'available use' – Advice regarding when a gaming machine is 'available for use'.[35]

Machines other than gaming machines in gambling premises

Automated roulette

16.23 There are two types of automated casino equipment that are excluded from the definition of a gaming machine in the Act. The first type is those linked to a live game of chance, for example, roulette. These enable the player to gamble on a live game as it happens, without actually being seated at the table, sometimes referred to as 'electronic roulette'. These are not regulated as gaming machines but as live gaming and there is no limit on the number of items of such equipment.

[34] SI 2007/ 2289: The Gaming Machine (Single Apparatus) Regulations 2007
[35] This advice note does not form part of the Guidance to Licensing Authorities

16.24 The second type is a machine that plays a live game but is fully automated, that is, it operates without any human intervention. For example, a roulette wheel that is electrically or mechanically operated with an air blower to propel the ball around the wheel. Again, these are not regulated as gaming machines, although casinos are bound by controls on the specification and number of player positions using such equipment. This is only the case where the machine is operated in accordance with a casino operating licence – if operated outside of a casino, the exclusion does not apply and it would be considered a gaming machine. The Act requires that equipment used to play a game of chance, for example, cards, dice and roulette wheels is 'real' and not 'virtual' if it is not to be classed as a gaming machine. Additionally the game outcome must not be determined by computer as this would normally be considered virtual.

Self-Service Betting Terminals (SSBTs)

16.25 S.235(2)(c) provides that a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events. Some betting premises may make available for use machines that accept bets on live events, such as a sporting event, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. Such betting machines merely replicate and automate the process that can be conducted in person, and therefore do not require regulation as gaming machines. S.181 of the Act contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). Part 19 of this Guidance provides further details.

Skill games

16.26 The Act does not cover machines that give prizes as a result of the application of skill by players. A skill with prizes machine (SWP) is one in which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes. Many FECs have games that give prizes by redemption of tickets accumulated. Providing these machines give prizes according to the skill of the player, for example getting a high score shooting basketball, they will be exempt.

16.27 Genuine SWPs can be sited without permissions. However, the Commission considers that the higher the payout offered by this type of machine, the less likely the machine will be viable as a genuine skill machine simply because of the risk that very skilful players will win the top prize too frequently, making the machine commercially unviable. The Commission has published advice on how to distinguish between these machines and gaming machines in Is a prize machine a gaming machine? and a quick guide on illegal gaming machines[36].

[36] The advice note and quick guide does not form part of the Guidance to Licensing Authorities

Lottery ticket vending machines

16.28 Lottery ticket vending machines are generally used to dispense 'instant win' lottery tickets, usually scratch cards or 'pull tab' tickets in society lotteries and they are mostly prevalent in private society lotteries. The Act defines a private society as 'any group or society established for a purpose not connected with gambling'. Typically a private society, such as a sports or social club, will promote a lottery and make lottery tickets available to members of the society or those on the premises of the society as part of a 'private society lottery'. Some societies buy or rent vending machines to dispense their lottery tickets.

16.29 Such machines are often supplied by licensed gaming machine suppliers but the operation and/or design of the machine must not constitute a gaming machine. Advice on the distinction between lottery ticket vending machines and gaming machines is available in the Commission's Comparing lottery ticket dispensers and category B3A gaming machines' a quick guide for licensing officers .[37]

16.30 Those who supply, manufacture and/or site lottery ticket vending machines are not required to hold an operating or premises licence or any other permission. Where a lottery ticket vending machine is used to dispense society or private society lottery tickets it is the responsibility of the promoter of the lottery to ensure that it is operated lawfully and the required information displayed on the dispensed tickets.

Other exclusions

16.31 S.235(2) of the Act sets out a number of exclusions, covering machines that are not considered gaming machines, even though gambling may take place on them, as follows:

- a domestic or dual use computer is not a gaming machine just because it can be used to take part in remote gambling. Regulations define a 'domestic computer' as one capable of being used for a purpose not related to gambling that is located in a private dwelling and used only on domestic occasions. A 'dual use computer' is also defined as having to be capable of being used for a purpose not related to gambling, but in addition must not be knowingly adapted or presented in such a way as to facilitate or draw attention to the possibility of its use for gambling[38]
- a telephone or other 'machine facilitating communication' that could be used for gambling purposes, for example, a mobile phone via which text message based lotteries can be entered, is not considered to be a gaming machine unless that is its primary purpose. Ordinary mobile phones are therefore exempt from the definition, but telephones designed or adapted for the purpose of enabling gambling would not be
- some machines that allow the purchase of lottery tickets are not gaming machines. However, this is intended as an exemption for the sale of tickets in a real lottery with other participants (for example a lottery vending machine), and not a virtual scratch card lottery conducted only by means of the machine. This means, first, that if the results of the lottery are determined by the machine, the machine is not exempt; and, second, if the machine announces the results of the lottery (determined otherwise than by the machine) by display or communication then the interval between the sale of the ticket and the announcement of the result must comply with the minimum period of time specified by regulations[39]. B3A machines are defined as a lottery style gaming machine and permitted under regulations within members' clubs and miners' welfare institutes in limited numbers

[37] This quick guide does not form part of the Guidance to Licensing Authorities
[38] SI2007/2082: The Gambling Act 2005 (Gaming Machines)(Definitions) Regulations 2007
[39] SI20072495: The Gambling (Lottery Machine Interval) Order 2007

- a machine operated by virtue of a bingo operating licence for the purpose of playing bingo will be exempt provided it complies with any conditions set by the Commission. This covers what are known as mechanised cash bingo and electronic bingo ticket minders
- also exempted are machines used for the playing of bingo by way of prize gaming in AGCs and FECs, however, the prize gaming regulations must be complied with.

Part 17: Casinos

Casino premises

17.1 Under the Act, licensing authorities in England and Wales have the role of issuing premises licences for casinos and monitoring those licences. In Scotland the licensing boards are licensing authorities and continue to have responsibilities for granting permissions for casinos in the form of premises licences.

17.2 New casino premises licences issued under the Act will fall into one of two categories namely large casino premises licence or small casino premises licence. These are subject to separate regulations, involving a two-stage application process, detailed below.

17.3 In addition, there is a third category of casino that is permitted through transitional arrangements under Schedule 18 of the Act, which may be referred to as '1968 Act converted casinos'. Most of these casinos fall below the size thresholds of the other two categories. Such casinos may operate as card clubs without offering casino games.

17.4 The gaming machines permitted to be made available in new casinos are related to the number of gaming tables available for use[40]:

- no more than eight large casino premises licences will be permitted. Large casinos will have a minimum total customer area of 1,500m^2. This category of casino will be able to offer casino games, bingo and/or betting and up to 150 gaming machines in any combination of categories B1 to D (except B3A lottery machines) provided that a maximum ratio of 5:1 gaming machines to gaming tables is met. Large casinos therefore need 30 gaming tables available for use to qualify for the maximum 150 machines. These facilities can be provided under a single licence[41]
- large casino premises licences may be issued by the following licensing authorities: Great Yarmouth Borough Council; Kingston upon Hull City Council; Leeds City Council; Middlesbrough Borough Council; Milton Keynes Borough Council; Newham London Borough Council; Solihull Metropolitan Borough Council, and Southampton City Council
- no more than eight small casino premises licences will be permitted. Small casinos will have a minimum total customer area of 750m^2. A small casino will be able to offer casino games, betting and up to 80 gaming machines in any combination of categories B1 to D (except B3A lottery machines) provided that a maximum ratio of 2:1 gaming machines to gaming tables is met. Small casinos therefore need 40 gaming tables available for use to qualify for the maximum 80 machines
- small casino premises licences may be issued by Bath and North East Somerset District Council; East Lindsey District Council; Luton Borough Council; Scarborough Borough Council; Swansea City and County Council; Torbay Borough Council; Wigtown Divisional Licensing Board in the area of Dumfries and Galloway Council; and Wolverhampton City Council.

17.5 The Commission has become aware that in some instances, operators who hold a combined non-remote casino licence and betting operating licence, have looked into converting part of their casino premises to betting premises. Licensing authorities are reminded that when considering such applications they must be satisfied that, if granted, the premises in question meets the relevant mandatory and default conditions for the relevant premises licence.

[40] SI 2009/1970 The Gambling Act 2005 (Gaming Tables in Casinos) (Definitions) Regulations 2009
[41] There are two new casinos are operational, in Newham and Milton Keynes

Casino games

17.6 S.7(1) of the Act states that 'a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games'. Casino games are defined by the Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants. The Act gives the Commission power through conditions attached to operating licences to restrict the types of casino games that may be made available.

17.7 The Commission prescribes a list of games that may not be played (none at present).

17.8 The Commission has published a document, Rules of core casino games in Great Britain - June 2011, which outlines the basic rules of the most popular casino games: roulette, blackjack, punto banco, three card poker and dice. Player information on the specific rules and odds applied to these and any other table games by individual operators are displayed in each casino, as required by code of practice 4 of the *Licence Conditions and Codes of Practice (LCCP)*.

17.9 Operators who are interested in running a trial of a new game, side bet or variation should contact the industry-led Casino Games Review Group which has been set up to co-ordinate and monitor new games and determine their suitability for the market place. They will ensure that core rules and information is added to a dedicated web site (www.ukcasinotablegames.info) for the information of other operators, the public and regulators.

Protection of children and young persons

17.10 No-one under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. Social Responsibility (SR) code 3.2.1(2) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling. There must also be a door supervisor at every entrance to a casino to ensure that this restriction is enforced (SR 3.2.1(3)). Children and young persons are not allowed to be employed at premises with a casino premises licence. Licensing authorities are able to find information about the restrictions that apply in the LCCP.

The process for issuing casino premises licences

17.11 Licensing authorities whose areas have been chosen for the new casinos should set out the principles they intend to apply when determining the 'winner' of a premises licence competition, in their statement of policy so that it is available to potential applicants before the authority invites applications for the available casino premises licence(s). The unsuccessful applicants must be informed of the result of the competition.

17.12 The Secretary of State has issued a code of practice about the procedure to be followed by licensing authorities in making determinations at both stage one and stage two, and also about the matters authorities are to take into account in making such determinations. The Act requires licensing authorities to comply with any code of practice issued by the Secretary of State.

17.13 Where an authority invites applications, those applications may be in the form of an application for a provisional statement as well as in the form of an application for the grant of a full casino premises licence. Where an application is made in the form of a provisional statement it is to be treated in the same way as an application for a casino premises licence and included in any two-stage determination process that the authority is required to carry out.

If an application for a provisional statement is successful in that process, then it is not necessary for a further two-stage licensing process to be held when a casino premises licence application is eventually made by the operator to whom the statement has been issued.

17.14 As a first step in licensing a casino, the licensing authority will have to invite applications for any casino premises licences that it may issue. Regulations set out how the process of inviting applications is to be done.[42]

17.15 It is possible that the number of applications that the relevant licensing authorities will receive will exceed the number of licences available. The Act lays down a framework for a two-stage process for considering applications in these circumstances.

17.16 As with all deliberations in premises licences, the authority should not confuse planning and building regulation considerations with the matter before it.

17.17 Authorities should think carefully before entering into any agreements or arrangements with potential casino operators which might be perceived to affect their ability to exercise their stage two functions objectively and without having prejudged any of the issues. If any such agreements or arrangements are entered into, it will be important that authorities are able to demonstrate (for example, through having obtained independent and impartial advice on the competing applications) that any decision they reach is objectively based and is not affected by the arrangements.

Stage one

17.18 If more applications are received than the number of available licences, the authority must determine whether each application would be granted a licence if there were no limit on the number of licences that the authority could grant. Each application must be considered separately and no reference made to the other applications received.

17.19 During this process each of the other applicants will be considered an 'interested party' and may make representations. The consideration of representations should be the same as that for normal applications for premises licences, detailed in Part 7 of this Guidance.

17.20 This process will result in one or more provisional decisions to grant a premises licence, which will be disclosed to the applicant and any party that made representations.

17.21 The provisional decision of the licensing authority at stage one may be appealed. Until any appeal has been determined, the licensing authority may not proceed to stage two.

Stage two

17.22 The second stage of the process only applies where the number of applications which the licensing authority would provisionally grant under the stage one process exceeds the number of available casino premises licences.

17.23 Under the second stage of the process the authority has to decide between the competing applications and grant any available licences to those applications which in their opinion will result in the greatest benefit to its area.

17.24 There is no right of appeal against the grant or refusal at stage two although an applicant may seek judicial review of a licensing authority's decision.

[42] SI 2008/469; The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008

17.25 Where a licensing authority issues a provisional statement following a two-stage determination process, they may limit the period of time for which the statement has effect. This is so that the authority can control the period within which the full casino premises licence application has to be made. Under Schedule 9 to the Act the authority is allowed to extend the period for which the provisional statement has effect if the person to whom it is issued applies to have it extended.

Resolutions not to issue casino licences

17.26 S.166(1) of the Act states that a licensing authority may resolve not to issue casino premises licences.

17.27 The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the licensing committee. In passing such a resolution the authority may take into account any principle or matter, not just the licensing objectives. Where a resolution is passed, it must be published by the authority in its statement of policy.

17.28 The resolution must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution (again the whole authority must pass that resolution). The resolution will lapse after three years so, should the licensing authority wish to keep the policy in place, they should pass a resolution every three years.

17.29 A resolution not to issue casino premises licences will only affect new casinos. It will not have any effect on casino premises licences issued before the resolution takes effect or on provisional statements issued before that date. Similarly a resolution will not affect the ability of existing casinos with preserved entitlements from the Gaming Act 1968 from continuing to operate as casinos.

Converted casinos (with preserved rights under Schedule 18 of the Act)

17.30 Casino operators with licences granted under the Gaming Act 1968 were eligible to be granted a casino premises licence under 'grandfathering' arrangements. Additionally, special provisions apply to enable these operators to relocate premises by way of a variation to a converted casino premises licence providing those premises are wholly or partly situated in the area of the licensing authority which issued the licence.[43]

17.31 These casinos will retain the rights to gaming machines equivalent to their entitlements under previous legislation. That means they are permitted no more than 20 machines of category B to D (except B3A machines), or they may elect to have any number of category C or D machines instead (as was previously the case under s. 32 of the Gaming Act 1968[44]).There is no table-to-machine ratio in these casinos.

17.32 These premises licences are subject to the normal system of review as outlined in Part 10 of this Guidance. Where a licensing authority has passed a 'no casino' resolution, this may not be taken into account in considering whether to review a premises licence.

Casino premises licence conditions

17.33 Part 9 of this Guidance discusses the mandatory and default conditions that attach to premises licences.

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[43] SI 2006/ 3272:The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006; Schedule 4, paragraph 65 (12,13)

[44] SI 2006/3272: Commencement No 6 and Transitional Provisions Order Schedule 4 paragraph 65(6)

Mandatory conditions – all casino premises licences

17.34 Access to premises is regulated to add additional safeguards for both the public and industry. The principal entrance to the casino should be from a street. A street is defined as including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping centres), whether it is a thoroughfare or not.

17.35 No customer must be able to enter the casino from any other premises holding a casino, bingo, adult gaming centre (AGC), family entertainment centre (FEC)or betting premises licence, or from premises where a FEC, club gaming and club machine, or licensed premises gaming machine permit, has effect.

17.36 There should be no access to a casino from premises wholly or mainly used by children and young persons.

17.37 No other gambling equipment may be situated within two metres of any ordinary gaming table. For the purposes of these conditions an ordinary gaming table means one which is not wholly or partially automated.

17.38 A maximum of 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.

17.39 All casinos must display the rules of each type of casino game that can be played on the premises in a prominent place within both the table gaming area and other gambling areas to which customers have unrestricted access. Licensees may do this either by displaying clear and legible signs or by making available to customers leaflets or other written material setting out the rules.

17.40 ATMs must be positioned so that customers must cease to gamble at tables or gaming machines in order to use them.

Mandatory conditions – large casino premises licences

17.41 A notice shall be displayed at all entrances to the casino stating that no person under the age of 18 will be admitted.

17.42 Large casinos must provide a minimum table gaming area of 1000m^2. In determining the floor area of the table gaming area, any number of separate areas within the casino may be taken into account. However, no area counting towards the minimum table gaming area may comprise less than 12.5% of the total minimum table gaming area. No gambling shall be permitted in the table gaming area of the premises other than gambling by way of table gaming.

17.43 Large casinos must offer a non-gambling area of a minimum of 500m^2. These areas must be readily available to customers (ie offices, kitchen areas, employee areas will not count). They may include but should not consist exclusively of, lavatories and lobby areas. The area must also include recreational facilities for casino customers that are available for use when the casino is open; where there is more than one area each area must contain recreational facilities. No gambling facilities may be offered in the non-gambling areas. In England and Wales the non gambling area may consist of one or more areas within the casino.

17.44 Clear and accessible information about the terms on which a bet may be placed should be displayed in a prominent position on the premises.

17.45 Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written materials containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.

17.46 No more than 40 separate betting positions may be made available for use if betting is provided by means of terminals rather than an over the counter service.

Mandatory conditions – small casino premises licences

17.47 A notice shall be displayed at all entrances to the casino stating that no person under the age of 18 will be admitted.

17.48 Small casinos must provide a minimum table gaming area of 500m^2. In determining the floor area of the table gaming area, any number of separate areas within the casino may be taken into account. However, no area counting towards the minimum table gaming area may comprise less than 12.5% of the total minimum table gaming area. No gambling shall be permitted in the table gaming area of the casino other than gambling by way of table gaming.

17.49 Small casinos must offer a non-gambling area of a minimum of 250m^2. These areas must be readily available to customers (ie offices, kitchen areas, employee areas will not count). They may include, but should not consist exclusively of, lavatories and lobby areas. The area must also include recreational facilities for casino customers that are available for use when the casino is open; where there is more than one area each area must contain recreational facilities. No gambling facilities may be offered in the non-gambling areas. In England and Wales the non gambling area may consist of one or more areas within the casino.

17.50 Clear and accessible information about the terms on which a bet may be placed should be displayed in a prominent position on the premises.

17.51 No more than 40 separate betting positions may be made available for use if betting is provided by means of terminals rather than an over the counter service.

Mandatory conditions – converted casino premises licences

17.52 A notice shall be displayed at all entrances to the casino stating that no person under the age of 18 will be admitted.

17.53 Casinos with converted licences, and that have a gambling area of over 200m^2, must offer a minimum non-gambling area equivalent to at least 10% of its total gambling area. In determining the floor area of the gambling area, all areas in which facilities for gambling are provided should be taken into account. These areas must be readily available to customers (eg offices, kitchen areas, employee areas will not count). They may include, but should not consist exclusively of, lavatories and lobby areas. The area must also include recreational facilities for casino customers that are available for use when the casino is open; where there is more than one area each area must contain recreational facilities. No gambling facilities may be offered in the non-gambling areas. In England And Wales the non-gambling area may consist of one or more areas within the casino.

Default conditions attaching to all casino premises licences

17.54 The default opening hours of all casinos are noon to 6am.

Controlling where gaming machines may be played – casino

17.55 The following policy objectives summarise the key elements that underpin the approach to controlling where gaming machines may be played:

- with very few low risk exceptions, non-remote gambling should be confined to dedicated gambling premises
- the distinctions between different types of licensed gambling premises are maintained
- gambling activities are supervised appropriately
- within casino, bingo and betting premises, gaming machines are only made available in combination with the named non-remote activity of the operating licence.

17.56 The Act and associated regulations set out a comprehensive regulatory framework for controlling gaming machines. By linking different machine entitlements to different types of premises, the framework seeks to ensure the number and power (in terms of stakes, prizes and speed of play) of machines is proportionate to the premises. For such a framework to have any meaningful effect it must be possible for regulatory authorities and consumers to distinguish between different gambling premises.

17.57 The LCCP requires (social responsibility code provision 9) that gaming machines are only made available in combination with the named non-remote activity of the operating licence. So, unless a casino premises operator offers substantive facilities for non-remote casino games and/or games of equal chance it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.

17.58 The current regulatory framework prescribes that Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment. In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed as a casino is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for casino games and/or games of equal chance.

17.59 Licensing authorities are not being asked to impose a ‘one size fits all’ view of how a casino should look and function. Rather they are ensuring that a premises licensed for the purposes of providing facilities for casino and/or games of equal chance is operating as such and is not merely a vehicle to offer higher stake and prize gaming machines.

17.60 In exercising its functions under the Act a licensing authority should take account of the relevant code of practice on ‘controlling where gaming machines may be played’. It is specifically obliged to do so when exercising functions under section 153 of the Act. In circumstances where a licensing authority considers an existing premises is not compliant with these general requirements they should contact the Commission at the earliest opportunity.

17.61 Both the Commission and licensing authorities have the power to attach specific conditions to operating or premises licences in circumstances where additional assurance is required. The Commission favours the approach of general conditions for all supplemented by operator specific conditions in cases where novel or contentious operating models are used which include the provision of gaming machines. This is to deliver the policy objectives above and ensure the risk to the licensing objectives is minimised.

17.62 In the Commission's view the above approach would ideally be adopted at licensing stage. Licensing authorities should ensure that they request all the information required from an applicant for a new premises or for a variation to an existing premises in order to satisfy themselves as to the matters set out at s153 of the Act. This includes the codes of practice and this Guidance. The approach of adding case specific conditions can equally be deployed in respect of an existing unit where concerns arise or when changes are made to the operating model.

Part 18: Bingo

18.1 Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

18.2 The game and rules of bingo have evolved to the point where, despite the absence of any formal industry standard, the way in which bingo is played is broadly similar throughout Great Britain. Bingo is equal chance gaming. The Commission has published its view of what bingo is and how it differs from other forms of gambling. This can be found in the advice note What constitutes bingo.[45] This advice was developed with the support of key stakeholders from the bingo industry.

18.3 Cash bingo is the main type of bingo played in commercial bingo premises. They also offer prize bingo, largely as games played in the intervals between main stage games. This means that only premises with a bingo premises licence, or a large casino premises licence issued under the Act (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.

18.4 As well as commercial bingo premises, bingo can be found in other gambling premises. Prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or at travelling funfairs. For these operators, prize bingo is subject to the allowances for prize gaming in the Act. This means that, subject to limits on participation fees and prizes, adult gaming centres, licensed and unlicensed family entertainment centres, and travelling fairs, (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo. In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game, and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming. See Part 27 of this Guidance for a fuller discussion of prize gaming.

18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

Protection of children and young persons

18.6 Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines. Licensing authorities are able to find information about the restrictions that apply in *Licence Conditions and Codes of Practice* (LCCP).

[45] This advice does not form part of the Guidance to Licensing Authorities

18.7 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. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

Gaming machines

18.8 S.172(7), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premise. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3[46] (but not B3A) and B4 machines.

18.9 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

18.10 Equipment operated by a bingo operating licence for the purpose of playing bingo, for example what are currently known as mechanised cash bingo, electronic bingo terminal (EBTs) and video bingo terminals (VBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Commission and, in the case of EBTs, do not hold gaming machine content.

18.11 An EBT that offers gaming machine content in addition to bingo content is considered to be a gaming machine and would count towards the total number of gaming machines or towards the offering of bingo. Any EBTs that do not offer gaming machine content would not count towards the number of gaming machines.

Bingo in clubs and alcohol-licensed premises

18.12 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains a low stakes and prizes activity.[47]

18.13 In addition, new rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes. Where the level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained from the Commission for future bingo games. Even in this circumstance, bingo can still only be offered under the rules for exempt gaming. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

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[46] SI 2007/2158: Categories of Gaming Machine Regulations 2007

[47] SI 2007/1940: The Gambling Act 2005 (Exempt Gaming in Alcohol-Licensed Premises) Regulations 2007
SI No. 1944; the Gambling Act 2005 (Exempt Gaming in Clubs) Regulations 2007

18.14 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as 'high turnover bingo'. There is a legal duty on the licensee or club to inform the Commission if they offer high turnover bingo in any seven day period. This allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the point at which a bingo operating licence may be needed. A 'high turnover period' begins with the first day of the seven day period in which the threshold was exceeded and lasts for a year. If a second period of high turnover bingo occurs within that year, a bingo operating licence will be required. Where bingo is played in a members club under a bingo operating licence no premises licence will be required.

18.15 If it comes to the attention of licensing authorities that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission. To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has developed a statutory code of practice the Code of Practice for gaming in clubs and premises with an alcohol licence.

Bingo in casinos

18.16 The eight large casinos will be able to offer bingo. Bingo will be permitted as part of their casino premises licence and they will not require a separate bingo premises licence, though they will need to obtain a bingo operating licence (which may be combined with their casino licence) in order to offer facilities for bingo at a casino. The standards in this respect will be no lower than for operators seeking only to provide facilities for bingo alone.

Bingo premises licence conditions

18.17 Part 9 of this Guidance discusses the mandatory and default conditions that attach to premises licences.

Mandatory conditions

18.18 A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.

18.19 No customer shall be able to enter bingo premises directly from a casino, an adult gaming centre or betting premises (other than a track).

18.20 Over 18 areas within bingo halls that admit under-18s must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.

18.21 Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.

18.22 Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Default conditions

18.23 Bingo facilities in bingo premises may not be offered between the hours of midnight and 9am. However, there are no restrictions on access to gaming machines in bingo premises.

Controlling where gaming machines may be played – bingo

18.24 The following policy objectives summarise the key elements that underpin the approach to controlling where gaming machines may be played:

- with very few low risk exceptions, non-remote gambling should be confined to dedicated gambling premises
- the distinctions between different types of licensed gambling premises are maintained
- gambling activities are supervised appropriately
- within casino, bingo and betting premises, gaming machines are only made available in combination with the named non-remote activity of the operating licence.

18.25 The Act and associated regulations set out a comprehensive regulatory framework for controlling gaming machines. By linking different machine entitlements to different types of premises, the framework seeks to ensure the number and power (in terms of stakes, prizes and speed of play) of machines is proportionate to the premises. For such a framework to have any meaningful effect it must be possible for regulatory authorities and consumers to distinguish between different gambling premises.

18.26 The LCCP requires (social responsibility code provision 9) that gaming machines are only made available in combination with the named non-remote activity of the operating licence. So, unless a bingo premises operator offers substantive facilities for non-remote bingo it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.

18.27 The current regulatory framework prescribes that Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment. In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for bingo.

18.28 Licensing authorities are not being asked to impose a ‘one size fits all’ view of how a bingo premises should look and function. Rather they are ensuring that a premises licensed for the purposes of providing facilities for bingo is operating as such and is not merely a vehicle to offer higher stake and prize gaming machines.

18.29 In exercising its functions under the Act a licensing authority should take account of the relevant code of practice on ‘controlling where gaming machines may be played’. It is specifically obliged to do so when exercising functions under section 153 of the Act. In circumstances where a licensing authority considers an existing premises is not compliant with these general requirements they should contact the Commission at the earliest opportunity.

18.30 Both the Commission and licensing authorities have the power to attach specific conditions to operating or premises licences in circumstances where additional assurance is required. The Commission favours the approach of general conditions for all supplemented by operator specific conditions in cases where novel or contentious operating models are used which include the provision of gaming machines. This is to deliver the policy objectives above and ensure the risk to the licensing objectives is minimised.

18.31 In the Commission's view the above approach would ideally be adopted at licensing stage. Licensing authorities should ensure that they request all the information required from an applicant for a new premises or for a variation to an existing premises in order to satisfy themselves as to the matters set out at s153 of the Act. This includes the codes of practice and this Guidance. The approach of adding case specific conditions can equally be deployed in respect of an existing unit where concerns arise or when changes are made to the operating model.

Part 19: Betting premises

19.1 The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing. This part of the Guidance discusses off-course betting which is betting that takes place other than at a track in what was previously known as a licensed betting office. Tracks are discussed in Part 20 of this Guidance. Please note that there are also betting offices on tracks, that have a separate premises licence from the track licence, which are also discussed in Part 20.

19.2 The Act also permits betting intermediaries to operate from premises. S.13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room. The Commission has issued an advice note on betting intermediaries[48].

19.3 Licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. The issuing of premises licences is discussed in Part 7 of this Guidance.

Protection of children and young persons

19.4 Children and young persons are not permitted to enter premises with a betting premises licence, although exemptions apply to tracks, as explained in Part 20 of this Guidance, and s.46 and s.47 of the Act set out offences of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. Social Responsibility (SR) code 3.2.7(3) in the *Licence Conditions and Codes of Practice* (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling. Children and young persons are not allowed to be employed at premises with a betting premises licence.

Gaming machines

19.5 S.172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines[49].

Self-Service Betting Terminals (SSBTs)

19.6 S.235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

19.7 However, where a machine is made available to take bets on virtual races (that is, results and / or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

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[48] This advice note does not form part of the Guidance to Licensing Authorities

[49] The terminals commonly in use are able to provide both B2 and B3 content

19.8 It is the Commission's view that the use of SSBTs is a form of remote communication and that a remote licence will be required if SSBTs are used to facilitate the making or accepting of bets by others. The Betting: advice for remote, non-remote and betting intermediaries[50] advice note sets out the framework which the Commission applies when deciding whether it considers that a particular operator is offering betting or is acting as a betting intermediary and whether gambling is remote gambling or non-remote gambling.

19.9 S.181 contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, should take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

19.10 Where SSBTs include the functionality to be marketed or presented in foreign languages, licensing authorities may seek to ensure that the operator has considered the ordinary code provision about making the following information also available in those languages: [51]

- the information on how to gamble responsibly and access to help referred to in the LCCP
- the players' guides to any game, bet or lottery required to be made available to customers under provisions in LCCP
- the summary of the contractual terms on which gambling is offered, which is required to be provided to customers as a condition of the licensee's operating licence.

Betting premises licence conditions

19.11 Part 9 of this Guidance discusses the mandatory and default conditions that attach to premises licences.

Mandatory conditions

19.12 A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted. The notice should be clearly visible to people entering the premises.

19.13 There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a street (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thoroughfare or not).

19.14 Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or self-service betting terminal (SSBT) in order to do so.

[50] This advice note does not form part of the Guidance to Licensing Authorities

[51] Ordinary code provision 3.3.2

19.15 No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:

- information about or coverage of sporting events, including information relating to betting on such events (and incidental information including advertisements)
- information relating to betting (including results) on any event in connection with which bets may have been affected on the premises.

Betting operator-owned TV channels are permitted.

19.16 No music, dancing or other entertainment is permitted on betting premises. This includes any form of entertainment such as apparatus producing sound or visual images which do not fall within paragraph 19.15 or machines which do not come within the categories of machine explicitly allowed in betting premises under s.172(8) of the Act.

19.17 The consumption of alcohol on the premises is prohibited during any time which facilities for gambling are being provided on the premises. Additionally in Scotland the sale of alcohol on the premises is also specifically prohibited.

19.18 The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications.

19.19 A notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises. In Scotland this notice must be displayed at every entrance.

Default conditions

19.20 Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

Controlling where gaming machines may be played – betting

19.21 The following policy objectives summarise the key elements that underpin the approach to controlling where gaming machines may be played:

- with very few low risk exceptions, non-remote gambling should be confined to dedicated gambling premises
- the distinctions between different types of licensed gambling premises are maintained
- gambling activities are supervised appropriately
- within casino, bingo and betting premises, gaming machines are only made available in combination with the named non-remote activity of the operating licence.

19.22 The Act and associated regulations set out a comprehensive regulatory framework for controlling gaming machines. By linking different machine entitlements to different types of premises, the framework seeks to ensure the number and power (in terms of stakes, prizes and speed of play) of machines is proportionate to the premises. For such a framework to have any meaningful effect it must be possible for regulatory authorities and consumers to distinguish between different gambling premises.

19.23 The LCCP requires (social responsibility code provision 9) that gaming machines are only made available in combination with the named non-remote activity of the operating licence. So, unless a betting premises operator offers substantive facilities for non-remote betting it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.

19.24 The current regulatory framework prescribes that Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment. In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed for betting is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for betting.

19.25 Licensing authorities are not being asked to impose a 'one size fits all' view of how a betting premises should look and function. Rather they are ensuring that a premises licensed for the purposes of providing facilities for betting is operating as such and is not merely a vehicle to offer higher stake and prize gaming machines.

19.26 In exercising its functions under the Act a licensing authority should take account of the relevant code of practice on 'controlling where gaming machines may be played'. It is specifically obliged to do so when exercising functions under section 153 of the Act. In circumstances where a licensing authority considers an existing premises is not compliant with these general requirements they should contact the Commission at the earliest opportunity.

19.27 Both the Commission and licensing authorities have the power to attach specific conditions to operating or premises licences in circumstances where additional assurance is required. The Commission favours the approach of general conditions for all supplemented by operator specific conditions in cases where novel or contentious operating models are used which include the provision of gaming machines. This is to deliver the policy objectives above and ensure the risk to the licensing objectives is minimised.

19.28 In the Commission's view the above approach would ideally be adopted at licensing stage. Licensing authorities should ensure that they request all the information required from an applicant for a new premises or for a variation to an existing premises in order to satisfy themselves as to the matters set out at s153 of the Act. This includes the codes of practice and this Guidance. The approach in adding case specific conditions can equally be deployed in respect of an existing unit where concerns arise or when changes are made to the operating model.

Industry codes

19.29 The betting industry, in common with other sectors of the gambling industry, has developed a variety of codes, for example through their trade association. Their main focus has been on matters related to social responsibility. Such codes, whilst not having the force of a licence condition or code, can assist officers when conducting premises inspections. Updates are provided in the LA Bulletin and on trade association websites.

Part 20: Tracks

Definition of a track

20.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

20.2 The Act does not give a list of premises that are officially recognised as 'tracks' but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include:

- a horse racecourse (referred to in this Guidance as 'racecourses')
- a greyhound track
- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

20.3 This list is not exhaustive as, in theory, betting could take place at any venue where a sporting or competitive event is occurring. While many of these venues are not commonly understood to be 'tracks', they fall within the definition of 'track' in the Act. Licensing authorities may be of the view that they have few tracks in their area, but the definition in the Act means that most licensing authorities are likely to have venues that could be classified as a track for betting purposes.

20.4 The Act also provides for tracks which do not currently offer betting facilities, but may elect to do so at some stage in the future. This means that land which has a number of uses, one of which fulfils the definition of a track, could qualify for a premises licence. Examples could include agricultural land upon which a point-to-point meeting takes place or a theatre, arena or exhibition centre where sporting events such as darts or snooker competitions are held. Under the Act, these may all be classified as tracks.

20.5 The Act does not define what constitutes a sporting event or race and licensing authorities will need to decide this on a case by case basis. The Commission is aware of some instances of the apparent misuse of occasional use notices (OUNs), by the arrangement of a contrived sporting event at a premises solely in order to apply for an OUN and to permit betting on premises where it would not normally be allowed. Further details can be found in Part 15.

20.6 If an individual or company wants to offer betting facilities on a sporting event then different forms of 'approval' are available, one of which must be obtained if betting is to be provided, irrespective of whether the betting is generally incidental to the main sporting activity. The different types of approval for the provision of betting facilities at premises are:

- a premises licence
- An occasional use notice.

Track premises licences – differences from other premises licences

20.7 There are differences between track premises licences and most other premises licences. In essence, tracks admit third-party operators to provide betting facilities, whereas other premises licence holders – betting shops, bingo clubs and casinos for instance – provide the gambling facilities themselves and are subject to the conditions of the operating licence as well as the premises licence.

20.8 The Act recognises that tracks are primarily premises intended for entertainment other than gambling and therefore places no restrictions on offering ancillary entertainment including allowing music, dancing or other entertainment on the premises and the sale of alcohol.

20.9 Tracks are also recognised as multi-purpose venues having a wide range of facilities that enable them to host various other activities, often on non-event days, including:

- private dinners and parties
- weddings
- retail events (auctions, car boot sales etc)
- concerts
- conferences
- exhibitions.

20.10 While there is no special class of betting premises licence for a track, the Act does contain rules which apply specifically to premises licences granted in respect of a track.

20.11 Premises licences in relation to tracks differ from other types of premises licence in a number of ways. Most importantly, the applicant for the licence need not hold an operating licence from the Commission[52].

20.12 Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. For example, a limited number of track premises licences will be held by operators of pool betting licences, who may also have an alcohol licence for the premises. The Act sets out that there can be a primary premises licence for the track and, in addition, subsidiary premises licences for other parts of the track[53]. This allows track venues to develop leisure facilities such as a casino and apply for a premises licence for that part of the track.

20.13 The offence of inviting or permitting a child or young person to enter gambling premises under s.47 of the Act, does not apply to tracks (s.47(4)). Children and young persons are allowed to be present on the track while a sporting event is taking place on those licensed premises. Paragraph 20.28 details the position for non-event days.

20.14 There are also a number of track premises licence holders who have an operating licence because they provide facilities for pool betting. These operators, such as greyhound track owners, in addition to admitting 3rd party betting operators, run their own pool betting facilities as permitted by s.179, and are subject to licence conditions applicable to their status as both betting operators and track premises licence holders.

20.15 On a limited number of occasions it has been suggested that areas on a track such as a hospitality box has been used as a trading room. Were this to be the case a betting premises licence would be required separate to the overall track premises licence. The Commission's approach to the subject is detailed in an advice note Is a trading room licence required?[54] and can be found on our website. If a licensing authority is in any doubt as to the status of such an operation they should contact the Commission.

[52] Section 159 (4) of the Act
[53] Section 152 (3) of the Act
[54] This advice note does not form part of the Guidance to Licensing Authorities

Betting on tracks

20.16 There are various types of betting which take place in relation to tracks, often divided into ‘on-course’ and ‘off-course’.

On-course betting

20.17 The on-course betting operator is one who comes onto the track, temporarily, while races or sporting events are taking place. On-course betting operators tend to offer betting only on the events taking place on the track, that day. For example, betting operators attending horserace and greyhound racing meetings will only attend on race days. Similarly, betting operators at cricket and football grounds are only likely to attend on days when matches are taking place.

20.18 Betting on tracks is organised in different ways and can take place in different parts of the track in many different forms. These include the following:

- **‘Betting rings’**
  The ring can be dispersed throughout the track, and can include ‘temporary’ rings at large meetings, but all different locations form part of the betting area. On-course betting operators will be located in the betting ring according to a position (‘pitch’) allocated to them under the commercial arrangement they have with the track owner.
- **Betting counters or kiosks**
  A betting counter or booth may be a permanent or temporary outlet from which a bookmaker provides betting facilities. Examples include manned stands or portacabins located at football grounds on match days, and the temporary kiosks used by bookmakers at cricket grounds during test matches.
- **Mobile betting**
  Mobile betting machines (often hand held) operated by employees of betting operators allow customers to place a bet or receive payouts away from betting kiosks or the betting ring, most commonly in hospitality areas.
- **Self-service betting terminals (SBBTs)**
  SSBT, described in paragraph 19.6, lack the direct human intervention of a betting counter staffed by a cashier, and can be located at different parts of tracks. See below more details on SSBTs at tracks.
- **Pool betting** (also known as totalisator betting or the ‘Tote’)
  This involves the pooling of stakes on a given event, and the splitting of the total pool, less a commission for the operator amongst the winners. This form of betting at racetracks is currently only provided by the ‘Tote’. In 2011 the Tote was purchased by Betfred. As part of the sale process Betfred received an exclusive seven year licence to offer pool betting on UK horseracing, which expires in 2018. Pool betting is also offered at greyhound tracks, usually by the owner of the track under a pool betting operating licence or a person authorised to act on their behalf. Tracks may also conduct inter-track pool betting when other tracks are holding races.

Off-course betting

20.19 Off-course betting operators are those who provide betting facilities other than at a track in betting premises such as those found on the high street. In addition to premises away from the track, betting operators may operate self-contained betting premises or designated areas such as a row of betting kiosks within the track premises. Self-contained premises provide facilities for off-course betting (in effect, the opportunity to bet on other events not just those taking place on the track), although they normally operate only on race days.

20.20 The provision of off-course betting facilities as described above is generally conducted in reliance on the track premises licence held by the occupier of the track and consequently the off-course operator is prohibited from making any gaming machines available for use unless they hold a separate premises licence in relation to part of the track, ie a 'subsidiary licence'. In order for a subsidiary licence to be secured, the track premises licence holder will need to vary their existing premises licence so that it does not have effect in relation to the area where the operator intends their subsidiary licence to have effect, and a separate betting premises licence would need to be secured by the off-course operator. Such a premises would then be subject to the conditions outlined in Part 19.

20.21 Licensing authorities are advised to familiarise themselves with the different types of licences that may be available on tracks.

Licences and other permissions for the provision of betting facilities

20.22 A track premises licence permits the premises to be used for the provision of facilities for betting, but does not permit the licence holder to provide casino, bingo or other types of gambling on tracks, as these activities must be the subject of separate premises licences.

20.23 Sporting events and races take place at many different venues including hotels, conference centres, on agricultural land, and at designated sporting venues such as football grounds. In many cases such venues do not hold sporting events all year round and the number of 'event' days may be limited. The Act provides that if certain conditions are met, a premises licence is not always required to permit betting facilities at such events.

20.24 S.39 of the Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an OUN, as described at Part 15 of this Guidance. This permits licensed betting operators to provide facilities for betting on tracks for short periods. An OUN may be suitable for a point-to-point track which holds race meetings eight times a year or less. No conditions are attached to an OUN. However, only licensed betting operators may offer betting facilities at such tracks, otherwise an offence would be committed under s.33 of the Act.

Betting on event and non-event days

20.25 All track premises licences are subject to a default condition that gambling facilities can only be provided at the track between the hours of 7am and 10pm[55]. Gambling facilities can be provided during this time, regardless of whether or not a sporting event is taking place. The default condition does not apply however on days when a sporting event is taking place on the premises.

Hours of betting on non-event days

20.26 On days when no sporting event is taking place, a track premises licence is subject to the default condition on times.

20.27 Some tracks have traditionally offered, and will wish to continue to offer, facilities for gambling outside the proposed gambling hours on non-event days. For example, to screen live televised events from other time-zones (which may take place after 10pm or before 7am) and provide betting facilities during those events. Tracks can apply for the default condition to be amended or removed to address this.

[55] SI no 1409: The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 & SSI no 266: The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007

20.28 Where tracks plan to open and allow provision for betting facilities on non-event days, betting operators will need to either exclude children from the premises on these days or demonstrate that they are able to exclude children and young persons from betting areas[56]. In simple terms, on non-event days, tracks become similar to licensed betting offices on the high street. Tracks may achieve this requirement by:

- locating all betting areas inside an area of the premises that is separated from the remainder of the premises by a physical barrier, thereby preventing access other than through a designated entrance
- only admitting adults to the part of the track where betting areas are located, by establishing procedures for verifying customer ages and refusing entry to adult-only areas for those unable to produce an acceptable form of identification (and taking action where there are unlawful attempts to enter adult-only areas)
- placing prominent notices in front of and inside each entrance stating that access to the area is prohibited to persons under 18.

20.29 Licensing authorities may choose to reduce the default gambling hours, providing any reduction is in line with the principles set out in s.153 of the Act.

Social responsibility considerations for tracks

20.30 The achievement of the licensing objectives requires betting operators to adopt socially responsible gambling policies and procedures designed both to ensure that gambling is open and fair and that children and other vulnerable people are not harmed or exploited by gambling.

20.31 While betting operators must put into effect policies and procedures to promote socially responsible gambling, there is no equivalent requirement on track premises licence holders. However, s.182(1)(a) of the Act places a condition on the track premises licence that the licensee shall ensure that children and young persons are excluded from any area where facilities for betting are provided.

20.32 As with other aspects of regulation licensing authorities may wish to make clear in their statement of policy any particular concerns or expectations that they have in relation to track premises licence holders and betting operators who provide facilities from the track.

Gaming machines

20.33 A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence. However, by virtue of s.172(9) of the Act, track owners holding both a track premises licence *and* a pool betting operating licence issued by the Commission (currently only greyhound tracks), may site up to four gaming machines within categories B2 to D on the track.

20.34 Some tracks will also hold an alcohol licence and as such they will be automatically entitled under s.282 of the Act to two gaming machines of category C or D. This permission is activated by notifying the licensing authority and paying the required fee. If a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to a total of six gaming machines (two via the alcohol licence and four via the operating licence).

[56] Section 182 (2) of the Act (as amended by SI 2007 – 1410)

20.35 Applications for licensed premises gaming machine permits to allow more than two gaming machines are not permitted where the premises are, or are part of, premises already covered by a premises licence including a betting premises licence in respect of a track[57]. However, there is a special saving for any alcohol-licensed premises within tracks in England and Wales which already had permission for more than two gaming machines pursuant to permits issued under s.34 of the Gaming Act 1968 and made an application for licensed premises gaming machine permits in accordance with transitional provisions[58].

20.36 Children and young persons can play category D gaming machines on a track, but are not allowed to play other categories of machine.

20.37 Alcohol premises licence holders who wish to make one or two gaming machines available for use in reliance on s.282 of the Act are required to send the licensing authority written notice of their intention and to pay the prescribed fee[59]. It is also a requirement that any relevant provision of a code of practice under s.24 about the location and operation of a gaming machine is complied with. This includes The gaming machine permits code of practice.

20.38 The Commission has attached a condition to all pool betting operating licences that the operator must:

- have and put into effect policies and procedures designed to prevent underage gambling
- monitor the effectiveness of these.

Self-Service Betting Terminals (SSBTs)

20.39 S.235(2)(c) of the Act provides that a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events. Betting operators may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet with a member of staff. These self-service betting terminals are not gaming machines; they merely automate the process that can be conducted in person and therefore are not regulated as gaming machines.

20.40 Licensed operators may install SSBTs on tracks. There is no restriction on the number of SSBTs that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age.

20.41 There is no formal requirement on track premises licence holders to involve themselves in the procedures used by betting operators to supervise their SSBTs (unless specific local conditions specifying supervisory arrangements are added to the track premises licence by the licensing authority). Some betting operators may agree supervisory assistance to be provided by employees of the track premises licence holders, but this is a commercial matter between the track owner and betting operators.

20.42 While track premises licence holders have no formal responsibilities in this regard, the Commission has advised them to inform it of instances where they are aware that betting operators are persistently failing to ensure the adequate supervision of their SSBTs.

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[57] Schedule 13(1)(2), of the Act
[58] SI 2006/3272 - The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 - Schedule 4, paragraphs 27 and 30
[59] SI 2007/1832 - Gaming Machines in Alcohol Licensed Premises (Notification Fee) (England and Wales) Regulations 2007, Regulation 3

Applications

Defining the premises

20.43 S.151 of the Act requires applicants for premises licences to submit plans of the premises with their application. This ensures that licensing authorities have the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan also informs future premises inspection activity.

20.44 Plans for tracks need not be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

20.45 In the majority of cases, such as greyhound tracks, racecourses, football stadia and cricket grounds, defining the extent of boundaries may be assisted by reference to existing plans already submitted to obtain other permissions. These could include:

- the obtaining of a safety certificate under 'Safety at Sports Ground' legislation (this applies in respect of sports grounds with capacity to accommodate more than 10,000 spectators)
- the historic boundaries under previous legislation such as, the approval of tracks under Schedule 3 of the Betting, Gaming and Lotteries Act 1963.

20.46 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. Licensing authorities should satisfy themselves that the plan provides sufficient information to enable them to assess an application.

20.47 As the plan forms part of the licence document, it also needs to be sufficiently flexible to ensure that a relatively small change in the premises layout would not require an operator to submit an application to vary the track premises licence. Only a significant change to the track layout would require a licence variation. For example, moving a category C gaming machine from one end of a bar that had been marked on the plan as a gaming machine area to another may not necessitate a full variation to a tracks premises licence, nor would the establishment of a new betting area at a racetrack, as neither of these events have any impact on the purpose of the licence or the conditions attached to it. However, relocating category C machines to entirely different parts of a track would generally need to be the subject of an application to vary the premises licence.

Ensuring that premises are fit for the provision of gambling facilities

20.48 Licensing authorities are required to ensure that premises are fit for a specific type of gambling. Premises which meet the conditions required to operate as, for example, a casino may not meet the requirements for offering track betting facilities.

Access to premises and other parts of the track

20.49 S.152 of the Act provides that premises may not have more than one premises licence authorising a type of activity, with the exception of track premises, whereby a track may be the subject of multiple premises licences.

20.50 Access between premises licensed for gambling and non-gambling areas is an important local licensing consideration, for reasons such as the following:

- to prevent operators from seeking to circumvent the Act by artificially subdividing a premises and securing separate premises licences for its composite parts
- to ensure that operators do not circumvent regulations governing the maximum number of gaming machines applicable to specific premises
- to ensure that people who have entered a premises for one type of gambling are not exposed to another, potentially harder, form of gambling
- to ensure that there is no direct access between gambling premises to which children have access and those which they are prohibited from entering
- to ensure that all gambling premises have publicly accessible entrances
- to ensure that gambling premises are not developed in the backrooms of other commercial premises.

20.51 As tracks may be the subject of multiple premises licences, regulations[60] have been laid to stipulate the access requirements between gambling premises, and when entering or leaving gambling premises. By virtue of the regulations no direct access is allowed from a track to a casino or adult gaming centre. Therefore if, for example, a casino is built on a track premises that is the subject of a track premises licence, clearly defined public thoroughfares should be in place to ensure that customers have to leave one gambling premises, and be aware they have done so, before entering another.

Access by children – special dispensation for tracks

20.52 Persons under 18 years old are not permitted to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the 'betting ring', where betting takes place.

20.53 Licensing authorities should note however that the exemption allowing children access to betting areas on tracks does not extend to areas within a track where category C or above machines are provided, or other premises to which under 18 year olds are specifically not permitted access. For example, where betting facilities are provided through a self-contained betting office on a track which has a separate betting premises licence, the betting operator of the self-contained premises is required to exclude under-18s from their premises.

20.54 The Act creates offences relating to gambling by children and young people and the operating licence conditions require operators to have policies and procedures in place to prevent betting from persons who are under 18 years old. As under-18s are permitted to enter betting areas on tracks on event days, this needs to include policies and procedures to mitigate the likelihood of underage betting occurring. The track premises licence holder is also required to display a notice in a prominent place at every public entrance stating that no person under the age of 18 is permitted to bet on the premises.

[60] SI 2007/1409: The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
SSI no 266: The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007

20.55 Licensing authorities should be aware that there is an anomaly in the Act, wholly prohibiting the employment of children and young people on tracks. DCMS will take steps to remedy this through the use of a Legislative Reform Order under the Legislative and Regulatory Reform Act 2005. This will create an exemption under section 55 of the Gambling Act 2005, allowing the employment of children and young persons in non-gambling roles on tracks (such as racecourses) which hold a betting premises licence. This was the original policy intention which would allow young people to work as jockeys, stable lads or dog handlers. S 51 of the Act, which prohibits people under 18 from working in roles related to the provision of facilities for gambling, is not affected by these proposals and would continue to apply. The timescales for the DCMS consultation and Parliamentary consideration are yet to be decided.

Multiple licences

20.56 S.152(3) of the Act permits the issuance of more than one premises licence for a track provided that each licence relates to a distinct specified area of the track. There cannot be more than one premises licence covering the same area of the track.

20.57 This enables track owners to extend existing facilities to provide other gambling facilities, such as a casino, on their existing tracks. In such a case, the licensing authority will need to consider access issues as direct access between a track and other betting premises (other than a track betting shop) is not permitted. Access for casino and bingo is dealt with in Parts 17 and 18.

20.58 Where a particular area of a track is already subject to a premises licence, and a person wishes to apply for a licence to offer another type of activity in that area, an application must be made to the issuing licensing authority to vary the original premises licence, under s.187 of the Act. The new track premises licence can only be granted at the same time as, or after, the original licence has been varied.

20.59 Licensing authorities may receive applications indicating separate betting areas that may not necessarily have clear physical boundaries, such as walls or fencing. Such areas could still be the subject of a separate betting premises licence provided the area is clearly delineated, both in terms of making it clear to the public that they are entering a 'betting office', and to keep out persons aged under 18. Customers should be aware that they are entering separate betting premises subject to its own licence conditions in respect of underage access and alcohol for example. The delineation of such an area is best achieved through a physical barrier. A licensing authority concerned that such an area cannot be satisfactorily delineated may wish to refuse an application for a separate betting premises licence.

20.60 Conditions applicable to off-track betting premises also apply to self-contained betting premises on tracks that are the subject of their own betting premises licence, which entitles the self-contained premises to offer up to four gaming machines (from categories B2 to D).

20.61 Track owners should decide in conjunction with the betting operators offering facilities at their track which premises licensing arrangement best suits the specific nature and circumstances of their track.

Licence conditions and requirements

The role of track premises licence holders

20.62 Since September 2012 on-course bookmakers have entered into licences with racecourses regarding the allocation of betting positions. The responsibilities of track premises licence holders are established by the mandatory and default licence conditions attaching to their premises licence. The licensed betting operators authorised by track owners to provide betting facilities at tracks must comply with their operating *Licence Conditions and Codes of Practice* issued by the Commission.

Acceptance of bets

20.63 Under s.33(2) of the Act, only licensed betting operators may accept bets or provide facilities for gambling. The Commission is responsible for issuing betting operating licences, and each betting operator must comply with the conditions of their operating licence. The Commission can invoke penalties or revoke licences if they fail to do so.

Pool betting

20.64 By virtue of s.179 of the Act, a track premises licence may only authorise the acceptance of bets by way of pool betting on horse racing or dog racing, and if the bets are accepted by the holder of the track premises licence or in accordance with arrangements made by him. In practice, though, this only applies to dog racing because of the exclusive licence for the Tote. In all cases a relevant operating licence will be required to license this activity[61]. A totalisator[62] on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect[63].

Admission of betting operators

20.65 It is a mandatory premises licence condition of track premises licences that the licence holder makes arrangements to ensure that the betting operators they admit to their track operate under valid operating licences.

20.66 Track premises licence holders, or their appointees, are therefore responsible for identifying and admitting those providing facilities for betting to operate on-course. This means both betting operating licence holders themselves and persons 'employed by the licensee under a written contract of employment'[64].

20.67 Track premises licence holders are responsible for determining their own arrangements for the verification of betting operators. As part of this process, the track premises licence holder should make arrangements for ensuring that the betting operator holds an operating licence.

20.68 There are special regulatory arrangements in place which mean that not all employees need to be listed on the licence, referred to as Schedule Y arrangements[65]. This means that bookmakers' assistants – such as computer operators and floormen – do not need to appear on the operator's licence. This light touch regulatory position allows for existing arrangements for supervision.

20.69 In instances where an operator holds more than one betting position at a track they can staff their subsequent positions with non-licensed employees as long as those betting positions are networked to the first pitch and the operator or a Schedule Y representative is in attendance at the track and operating the primary pitch In this situation the licensee or Schedule Y representative is responsible for all actions carried out by employees on the pitches that he is not physically standing on.

[61] Betfred's purchase of Great Leighs means that it holds the operating licence
[62] A system of pool betting
[63] SI 2007/1409: Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007, Schedule 6(3)(1)
[64] Section 92 of the Act
[65] A Schedule Y operator is an employee whose details have been provided to the Commission as authorised by the licensee to accept bets on their behalf otherwise than under the supervision of a qualified person on the same track

20.70 Licensing authorities should be aware that, as track premises licence holders are required through mandatory licence conditions to make arrangements for identifying and admitting only valid betting operating licence holders to offer betting on-track, different arrangements may be in place at different tracks to achieve this. Licensing authorities are advised to make themselves aware of the processes used by tracks that they licence in their localities.

Removal of illegal betting operators

20.71 Track premises licence holders are required by a mandatory licence condition to take reasonable steps to remove from the racecourse anybody found to be providing facilities for gambling without authorisation – in effect illegal bookmakers. This could include someone claiming to be a representative of a licensed betting operator who has been unable to prove their identity to the track premises licensee. Failure to uphold this requirement could result in action being taken against the premises licence holder.

20.72 Track premises licence holders should have policies and procedures for identifying illegal gambling in addition to the mandatory requirement to verify that betting operators offering betting facilities on their track hold suitable operating licences.

Display of rules

20.73 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. The terms or rules of betting is a consideration of the Commission in respect of the licensing of betting operators.

20.74 There are often multiple locations of betting on a track. For instance, on a large racecourse there may be a number of betting rings and Tote outlets and at least one betting shop, while at a football ground there could be several betting booths located throughout the various stadium concourses.

20.75 It may be considered disproportionate and unnecessary to insist that betting rules are displayed at each distinct betting location; rather, the rules should be made available at suitable central locations. The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in. If certain areas are restricted to certain customers (such as different stands within a football ground) then rules could be displayed at various parts of the track. Other measures could be taken to ensure that they are made available to the public, such as printing them in the race-card or programme. The requirement could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one.

20.76 As track premises licence holders do not necessarily provide betting facilities themselves (unless they hold a pool betting licence), they do not have their own set of betting rules to apply. In such cases, the licence holder should make it clear that the operator's betting rules will apply. At horserace meetings, for example, betting operators generally abide by Tattersall's 'Rules on Betting', and as such the premises licence holder should make this clear to customers. At a sports stadium where betting facilities are provided by a high street operator, the track licence holder may choose to state on the centrally provided notice that the rules followed by the betting operator will apply throughout the track.

20.77 Betting operators offering betting facilities on racecourses and at greyhound tracks are required through the conditions of their operating licence to clearly display any of their own rules that differ from those that the track premises licence holder elects to display, and their rules concerning voids, late bets, and maximum payouts. Track premises licence holders are expected to refer customers to the rules of individual on-course betting operators who are required to display this information on their stands (often referred to as ‘bookmaker joints’).

Part 21: Adult gaming centres

21.1 Persons operating an adult gaming centre (AGC) must hold a 'gaming machines general operating licence (adult gaming centre)' from the Commission and a premises licence from the relevant licensing authority. They are able to make category B, C and D gaming machines available.

Protection of children and young persons

21.2 No-one under the age of 18 is permitted to enter an AGC. The Act sets outs offences at s.46 and s.47 of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. In addition, Social Responsibility (SR) code 3.2.3(3) in the *Licence Conditions and Codes of Practice* (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage gambling.

21.3 Licensing authorities will wish to have particular regard to the location of and entry to AGCs to minimise the opportunities for under-18s to gain access. This may be of particular importance in areas where young people may be unsupervised for example, where an AGC is in a complex, such as a shopping centre or airport. Licensing authorities should consider whether their statement of policy can be used to reflect such locally based considerations.

Gaming machines

21.4 Gaming machine provisions by premises are set out at Appendix A. S.172(1) of the Act, as amended, provides that the holder of an AGC premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on those premises.

21.5 Premises subject to a licence granted before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. AGC premises licences granted on or after 13 July 2011 are entitled to 20% of the total number of gaming machines only. Regulations specify that the category B machines should be restricted to sub-category B3 and B4 machines, but not B3A machines[66].

21.6 Where the operator of an existing AGC premises licence applies to vary the licence and acquire additional AGC premises licences – so that the area that was the subject of a single licence will become divided between a number of separate licensed premises – each separate licensed premises must only contain the permitted machine entitlement. For example, where two separate AGC premises have been created adjacent to each other by splitting a pre-existing premises, it is not permissible to locate eight category B3 gaming machines in one of the resulting premises and none in the other, as the gaming machine entitlement for that premises would be exceeded. Part 7 explains in greater detail what constitutes premises.

AGC premises licence conditions

21.7 Part 9 of this Guidance discusses the mandatory and default conditions that attach to premises licences. Currently there are no default conditions specific to AGCs.

[66] S1 2158 The Categories of Gaming Machine Regulations 2007

Mandatory conditions

21.8 A notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises.

21.9 There can be no direct access between an AGC and any other premises licensed under the Act or premises with a family entertainment centre (FEC), club gaming, club machine or alcohol licensed premises gaming machine permit (England and Wales only). There is no definition of 'direct access' in the Act or regulations, although licensing authorities may consider that there should be an area separating the premises concerned, such as a street or cafe, which the public go to for purposes other than gambling, for there to be no direct access.

21.10 Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.

21.11 The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises. Additionally in Scotland the sale of alcohol on the premises is specifically prohibited. A notice stating this should be displayed in a prominent place at every entrance to the premises.

Part 22: Licensed family entertainment centres

22.1 The Act creates two classes of family entertainment centre (FEC). This part of the Guidance concerns licensed FECs. Unlicensed FECs are dealt with in Part 24. Persons operating a licensed FEC must hold a 'gaming machine general operating licence (Family Entertainment Centre)' from the Commission and a premises licence from the relevant licensing authority. They will be able to make category C and D gaming machines available.

Protection of children and young persons

22.2 FECs are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. Licensing authorities should take into account this specific risk when considering applications and when inspecting such premises, and will likely reflect the risks in their statement of policy.

22.3 Children and young persons are permitted to enter an FEC and may use category D machines. They are not permitted to use category C machines and it is a requirement that there must be clear segregation between the two types of machine, so that under-18s do not have access to them. Social Responsibility (SR) code 3.2.5(3) in the *Licence Conditions and Codes of Practice* (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling. Mandatory conditions apply to FEC premises licences regarding the way in which the area containing the category C machines should be set out, detailed below at paragraph 22.9.

22.4 SR 3.2.5(2) requires operators to ensure that employees prevent access and challenge children or young persons who attempt use category C machines. It is strongly recommended that licensing authorities ensure that staffing and supervision arrangements are in place to meet this requirement, both at the application stage and during subsequent inspections.

Meaning of premises

22.5 A licensed FEC is classified as 'premises' and only premises that are wholly or mainly used for making gaming machines available may hold an FEC premises licence (s.238 of the Act). As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.

22.6 The Commission considers that it is not permissible for gaming machines which should be contained within the FEC premises, to be located in corridors and walkways which form part of the larger building. Machines have been found in such venues without the requisite FEC premises licence and as such the machines are being made available unlawfully and are not subject to the controls necessary to minimise gambling-related harm and to protect children and vulnerable people. This exposes young people to ambient gambling that the Act was designed to prevent (through the removal of machines from take aways, taxi offices etc).

22.7 In the event that a licensing authority may have granted an FEC premises licence to premises that should not have qualified for one, the procedure for review will apply as set out in Part 10 of this Guidance. Depending on circumstances this might include sharing concerns with the premises licence holder (exploring the possibility of them applying to vary the premises licence to render it compliant), seeking a review of the premises licence and/or imposing conditions.

Licensed FEC premises licence conditions

22.8 Part 9 of this Guidance discusses the mandatory and default conditions that attach to premises licences. Currently there are no default conditions specific to FECs.

Mandatory conditions

22.9 The summary of the terms and conditions of the premises licence issued by the licensing authority under s.164(1)(c) of the Act must be displayed in a prominent place within the premises.

22.10 The layout of the premises must be maintained in accordance with the plan.

22.11 The premises must not be used for the sale of tickets in a private lottery or customer lottery, or the National Lottery.

22.12 No customer shall be able to enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track). There is no definition of 'direct access' in the Act or regulations, but licensing authorities may consider that there should be an area separating the premises concerned, such as a street or cafe, which the public go to for purposes other than gambling, for there to be no direct access.

22.13 Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.

22.14 Over-18 areas within FECs that admit under-18s, must be separated by a barrier with prominently displayed notices at the entrance stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.

22.15 The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. Additionally in Scotland the sale of alcohol on the premises is specifically prohibited. A notice stating this should be displayed in a prominent position on the premises.

Part 23: Introduction to permits

23.1 The Act introduces a range of permits for gambling which are granted by licensing authorities. Permits are designed as a light-touch approach to low level ancillary gambling – they are used in circumstances where stakes and prizes are subject to very low limits and / or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in specific premises.

23.2 Holders of alcohol-licensed premises gaming machine permits and club permits are required to comply with codes of practice drawn up by the Commission, on the location and operation of machines, namely The gaming machine permits code of practice.

23.3 The following parts of this Guidance discuss, amongst other things, the various permits that licensing authorities are responsible for issuing:

- part 24 – family entertainment centre gaming machine permits, Schedule 10
- part 25 – club gaming permits and club machine permits, Schedule 12
- part 26 – alcohol-licensed premises gaming machine permits, Schedule 13
- part 27 – prize gaming permits, Schedule 14.

23.4 Licensing authorities may only grant or reject an application for a permit. No conditions may be attached to a permit.

23.5 There are different factors to be taken into account by licensing authorities when considering the different types of permit applications and further information is provided in the relevant parts of this Guidance identified above.

23.6 In addition, licensing authorities are responsible for receiving notifications from holders of alcohol licences under the Licensing Act 2003 or the Licensing (Scotland) Act 2005, that they intend to exercise their automatic entitlement to two gaming machines in their premises under s.282 of the Act.

Part 24: Unlicensed family entertainment centres

24.1 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.

24.2 UFECs are premises which are 'wholly or mainly' used for making gaming machines available[67]. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

24.3 A permit lapses if the licensing authority informs the permit holder that the premises are not being used as an FEC.[68] Further guidance is set out at paragraph 22.5.

24.4 If the operator wishes to make category C machines available in addition to category D machines, the operator will need to apply for a 'gaming machine general operating licence (Family Entertainment Centre)' from the Commission and a premises licence from the licensing authority.

24.5 Schedule 10 of the Act sets out the application process and regulatory regime for FEC gaming machine permits.

Applying for a permit

24.6 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 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.

24.7 The licensing authority must specify the form and manner in which the application should be made, and specify what other information and documents (such as insurance certificates, plans of building, and so on) they require to accompany the application. Applications must be accompanied by a fee, as prescribed in regulations[69] set by the Secretary of State for England and Wales and Scottish Ministers for Scotland.

24.8 In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. Licensing authorities are also encouraged to also specify in their statement of policy that a plan for the uFEC must be submitted.

[67] S238 Gambling Act 2005
[68] Schedule 10 (14) Gambling Act 2005
[69] SI No 454/2007: The Gambling Act 2005 (Family Entertainment Centre Gaming Machine)(Permits) Regulations 2007
SSI No 309/2007: The Gambling Act 2005 (Fees)(Scotland) Regulations 2007

Granting or refusing a permit

24.9 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.
In considering the application, the licensing authority shall have regard to this guidance and may have regard to the licensing objectives (Schedule 10, paragraph 7 of the Act). The licensing authority may also consider asking applicants to demonstrate:

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

24.10 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. The rights of appeal in relation to permits are discussed in part 12 of this Guidance.

24.11 If a permit is granted, the licensing authority must issue it as soon as is reasonably practicable. The Secretary of State has set out the form of the permit in regulations[70]. The permit must specify the person to whom it is issued, the premises it relates to, the date on which it takes effect, the date on which it expires and the name and address of the licensing authority issuing it.

24.12 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 FEC gaming machine permits. Permits that were first granted under the Act will expire in 2017.

24.13 If the person to whom the permit is issued changes their name, or wants to be known by another name, they may send the permit to the issuing authority for amendment, together with the appropriate fee. The authority must comply with the request and return the permit to the holder.

Lapse, surrender and forfeiture

24.14 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 a 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.

24.15 The purpose of the second reason listed above is to ensure that there is no erosion of the principle that an uFEC permit should be obtained for premises that are wholly or mainly used for gaming machines. Licensing authorities would need to use this power in circumstances in which, since the grant of the permit, other activities have been introduced in the premises that mean the gaming machines have become ancillary.

[70] SI No 454/2007: The Gambling Act 2005 (Family Entertainment Centre Gaming Machine) (Permits) Regulations 2007

24.16 In the last two circumstances listed above, the Act provides that the personal representative (in the case of death), trustee of the bankrupt estate or liquidator of the company may rely on the permit for a period of six months as though it had effect and was issued to them.

24.17 The permit may also cease to have effect if the holder surrenders it to the licensing authority. Notice of such surrender must be accompanied by the permit, or by an explanation of why the permit cannot be produced.

24.18 If the permit holder is convicted of a relevant offence the court may order the forfeiture of the permit. The court may order the holder to deliver the permit to the licensing authority and it must, in any case, notify the licensing authority that it has made a forfeiture order as soon as is reasonably practicable after making the order. Such an order may be suspended by a higher court, pending appeal.

Renewal

24.19 In accordance with paragraph 18 of Schedule 10 of the Act, 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. The 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.

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

Maintenance

24.21 The permit must be kept on the premises and it is an offence not to produce it when requested to do so by a constable, an enforcement officer, or an authorised local authority officer.

24.22 If a permit is lost, stolen or damaged, the holder may apply for a replacement, subject to paying a fee that has been set by the Secretary of State or Scottish Ministers in regulations. The licensing authority must grant the application if it is satisfied that the permit has been lost, stolen or damaged and a report has been made to the police. The licensing authority should issue a copy and certify it as a true copy of the original permit.

Part 25: Clubs

Defining clubs

25.1 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) and
- commercial clubs.

This is an important distinction in respect of the gaming that may take place.

Members' club

25.2 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 men's' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations. Members' clubs may apply to their local licensing authority for club gaming permits and club machine permits. Particular care should be taken when assessing applications for gaming permits which have been used for illegal poker clubs under the guise of members' clubs. Experience very strongly indicates that taking care at the application stage in robustly checking the credentials of the applicant will save a great deal of time and effort afterwards. If a licensing authority is in any doubt as to the suitability of an applicant they should contact the Commission who will offer the appropriate support, advice and any intelligence that may be available.

24.3 In short, the statutory definition of a members' club requires that:

- it must be established and conducted wholly or mainly for purposes other than the provision of facilities for gaming
- the club satisfies the conditions attached to a club gaming permit
- they are not commercial clubs that would then be offering gambling illegally.

25.4 The Act states that 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 restricted to that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence.

Miners' welfare institute

25.5 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. Miners' welfare institutes may also apply for club gaming permits and club machine permits.

Commercial club

25.6 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. Commercial clubs may only apply for club machine permits. There are established tests to determine a club's status (see paragraphs 25.46 to 25.48) but if in doubt, legal advice should be sought.

Bingo in clubs

25.7 Clubs and miners' welfare institutes are able to provide facilities for playing bingo under s.275 of the Act or in accordance with a permit under s.271, provided that the restrictions in s.275 are complied with. These include that in any seven day period the aggregate stakes or prizes for bingo must not exceed £2,000[71]. If that limit is breached the club must hold a bingo operator's licence and the relevant operating, personal and premises licences must be sought. The bingo must comply with any code issued by the Commission under s.24 of the Act[72]. Further information about bingo in clubs can be found in paragraphs 18.12 to 18.15.

Betting in clubs

25.8 Commercial betting, regardless of the level of stakes, is not allowed in clubs. Those who facilitate such betting – whether designated premises supervisors or club officials – are providing illegal facilities for gambling and are breaking the law. Even where designated premises supervisors or club officials accept bets on behalf of licensed bookmakers, or just facilitate betting through their own telephone accounts, they are acting as betting intermediaries and could be prosecuted.

25.9 Licensed bookmakers with a full or ancillary remote licence may accept telephone bets from a customer watching an event in a club, as long as that customer has an individual account with them. It is illegal for bookmakers to sit in the club taking bets themselves. Similarly, it is also illegal for operators to put their agent in clubs, for example, in a working men's club on a Saturday, to take bets.

Exempt gaming

25.10 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.

25.11 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.

25.12 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[73]. These limits are set out in Appendix C to this Guidance.

25.13 Exempt gaming should comply with any code of practice issued by the Commission under s.24 of the Act.

25.14 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[74]. See Appendix C for further details.

25.15 In order to qualify as exempt gaming, clubs 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.

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[71] Code of practice for equal chance gaming in clubs and premises with an alcohol licence
[72] Code of practice for gaming in clubs and premises with an alcohol licence
[73] SI No 1944/2007: The Gambling Act 2005 (Exempt Gaming in Clubs) Regulations 2007
[74] SI No1944/2007: The Gambling Act 2005 (Exempt Gaming in Clubs) Regulations 2007

25.16 Members' clubs may only be established wholly or mainly for the purposes of the provision of facilities for gaming, if the gaming is of a prescribed kind. Currently, bridge and whist are the only prescribed kinds of gaming[75]. So long as it does not provide facilities for other types of gaming, a club established wholly or mainly for the purposes of the provision of facilities for gaming (currently bridge and whist) may apply for a club gaming permit. In any other case, if gaming is the main purpose of the club, that gaming cannot be treated as exempt gaming under s.269 of the Act. For example, if poker was the main purpose of the club, it could not be provided as exempt gaming.

25.17 The gaming offered must not be linked to gaming in other premises and no person under 18 may participate in the gaming.

25.18 Gaming which meets these conditions needs no permission from the licensing authority. However, if an authority believes that these conditions are being breached, it has a power to remove the exemption and ban gaming in a specific pub or club. Examples of potential breaches include:

- poker prize limits being exceeded on a regular basis
- a rake being applied to a poker game
- the siting of illegal gaming machines
- failure to adhere to other exemptions and codes.

25.19 The Commission has issued a code of practice under s.24 of the Act in respect of exempt equal chance gaming.

25.20 The code of practice requires owners/licensees to adopt good practice measures for the provision of gaming in general and poker in particular. The code also sets out the stakes and prizes limits and the limits on participation fees laid out in regulations.

25.21 The emphasis of the regulations and the code of practice is on self-regulation by the management of the premises and licensing authorities should take a strong line in cases where breaches are detected. There are a number of powers available to licensing authorities in circumstances where breaches have been committed including:

- attaching additional conditions to the premises licence
- withdrawal of the permit
- removal of automatic machine entitlement, attached to alcohol licence
- review of the alcohol licence.

Protection of children and young persons

25.22 S.273 sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines. It should be noted that clubs do not have to have permanent premises or an alcohol licence.

Permits

Club gaming permits

25.23 Schedule 12 of the Act sets out the application process and regulatory regime for club gaming permits and club machine permits. Scottish Ministers may, with the consent of the Secretary of State, make separate regulations in relation to club gaming or club machine permits in place of Schedule 12, if the applicant or the holder of the permit is the holder of a relevant Scottish licence. Scottish Ministers have made regulations in this regard[76]. In exercising a function under Schedule 12, the licensing authority must have regard to this Guidance and, subject to the guidance, the licensing objectives.

[75] SI No 1942/2007: The Gambling Act 2005 (Gaming in Clubs) Regulations 2007
[76] SSI No 504/2007: The Club Gaming and Club Machine Permits (Scotland) Regulations 2007

25.24 A club gaming permit or club machine permit may not be issued in respect of a vessel or vehicle.

25.25 Under s.271 of the Act, 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[77], namely pontoon and *chemin de fer*. This is in addition to the exempt gaming authorisation under s.269 of the Act.

25.26 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. See Part 16 of this Guidance for information on machine categories.

25.27 Where a club has gaming machines, it is required to comply with the code of practice issued by the Commission on the location and operation of machines, which can be found on the Commission's website.

25.28 The gaming which a club gaming permit allows is subject to conditions:
(a) in respect of equal chance gaming:

- the club must not deduct money from sums staked or won
- the participation fee must not exceed the amount prescribed in regulations
- the game takes place on the premises and must not be linked with a game on another set of premises.

Two games are linked if:

- the result of one game is, or may be, wholly or partly determined by reference to the result of the other game or
- the amount of winnings available in one game is wholly or partly determined by reference to the amount of participation in the other game, and a game which is split so that part is played on one site and another part is played elsewhere is treated as two linked games
- only club members and their genuine guests participate.

(b) in respect of other games of chance:

- the games must be pontoon and *chemin de fer* only
- no participation fee may be charged otherwise than in accordance with the regulations
- no amount may be deducted from sums staked or won otherwise than in accordance with the regulations.

25.29 There are limits on stakes and prizes for poker played in those clubs and institutes that do not hold a club gaming permit issued by their local licensing authority. The introduction of these limits reflects significant recent growth in the popularity of poker, and the need to address the particular risks associated with such gaming. The regulations[78] impose a stakes limit of £10 per person per game, within a premises limit of up to £250 in stakes per day and £1,000 per week. The maximum fees that clubs may charge their members for participating in gaming has been set at £1 per day (or £3 if they hold a club gaming permit). Clubs and institutes holding a club gaming permit are also able to provide facilities for specified banker's games.

[77] SI No 1945/2007: The Gambling Act 2005 (Club Gaming Permits) (Authorised Gaming) Regulations 2007
[78] SI No 1944/2007: The Gambling Act 2005 (Exempt Gaming in Clubs) Regulations 2007

25.30 To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has issued a statutory code of practice on equal chance gaming in consultation with interested parties. The provisions of the code of practice for equal chance gaming in clubs and premises with an alcohol licence (which also applies to alcohol-licensed premises) include:

- ensuring that young people and children are protected by excluding them from gaming (even if they are permitted on the premises)
- ensuring that gaming is fair and open by requiring close supervision of the games, record keeping (as appropriate), the need for standard rules and the display of stakes and prizes limits and the rules during play.

25.31 A 48 hour rule applies in respect of all three types of gaming, so that the games may only be played by people who have been members of the club for at least 48 hours, or have applied or been nominated for membership or are genuine guests of a member.

Club machine permits

25.32 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 authorises the holder to have up to three gaming machines of categories B3A, B4, C and D. Commercial clubs are not permitted to provide non-machine gaming other than exempt gaming under s.269 of the Act, so they should apply for a club machine permit (although such a permit does not allow the siting of category B3A gaming machines by commercial clubs).

25.33 In England and Wales, premises which operate membership-based social clubs (often work premises) are able to apply for a club machine permit. Before granting the permit the licensing authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18 years of age. The permit will allow up to three machines of category B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement. If under-18s use the club, for example they are apprentices, they may play the category D, but not the B4 or C, machines. This does not apply in Scotland because only a club with a premises licence under the Licensing (Scotland) Act 2005 may apply for a club machine permit[79].

25.34 Holders of licensed premises club machine permits are required to comply with the code of practice, which has been issued by the Commission on the location and operation of machines.

Applications for club gaming permits and club machine permits

25.35 The Secretary of State has made regulations in relation to applications for these permits, and Scottish Ministers have made separate regulations setting out the fees and applications requirements that apply in Scotland.

25.36 Applications must be made to the licensing authority in whose area the premises are located, and must be accompanied by the fee and documents prescribed in regulations[80]. Within a time prescribed in the regulations, the applicant must also copy the application to the Commission and to the chief officer of police. The Commission and the police may object to the permit being granted. The period within which such objections must be lodged and the grounds on which they may be made are set out in regulations. If any objections are made, the authority must hold a hearing (unless consent has been given to dispense with it), otherwise no hearing is necessary.

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[79] See SSI No 504/2007: The Club Gaming and Club Machine Permits (Scotland) Regulations 2007 and SSI No 150/2011: The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2011

[80] SI No 1834/2007: The Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007, and
SI No 2689/2007: The Gambling Act 2005 (Club Gaming and Club Machine Permits)(Amendments) Regulations 2007
SSI No 504/2007: The Club Gaming and Club Machine Permits (Scotland) Regulations 2007

25.37 A licensing authority may grant or refuse a permit, but it may not attach any conditions to a permit. The authority has to inform the applicant, the Commission and the police of the outcome of the application and of any objections made.

25.38 Licensing authorities may 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.

25.39 If the authority is satisfied that (a) or (b) is the case, it must refuse the application. Licensing authorities shall have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

25.40 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.

Fast-track procedure

25.41 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 an authority can refuse a permit are reduced. 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. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. The fast-track procedure also does not apply in Scotland.

25.42 Those clubs applying for permits by way of conversion of their pre-existing 1968 Gaming Act Part II or Part III club registrations do not have the fast track procedure available to them, even if they hold club premises certificates. In these instances, the club must still send a copy of the application to the Commission and chief officer of police. However, the Commission (and the police) may not object to the application and the licensing authority is, in fact, obliged to grant the application. However, care should be taken that the emphasis of the club is not being changed, to become a dedicated poker club for example.

25.43 The grounds on which an application under this process may be refused are that:

a) the club is established primarily for gaming, other than gaming prescribed by regulations under s.266 of the Act
b) in addition to the prescribed gaming, the applicant provides facilities for other gaming
c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

Factors to consider when granting a club gaming permit

25.44 The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. It is suggested that applicants for permits should be asked to supply sufficient information and documents to enable the licensing authority to take account of the matters discussed in paragraphs 25.46 to 25.46, at the time they submit their applications to the licensing authority. Licensing authorities should be particularly aware that club gaming permits may be misused for illegal poker clubs.

25.45 In determining whether a club is a genuine members' club, the licensing authority should take account of a number of matters, such as:

- Is the primary purpose of the club's activities something other than the provision of gaming to its members? This is an indicator that it's a genuine members' club.
- Are the profits retained in the club for the benefit of the members? This is the key difference between a members' club and a commercial club
- Are there 25 or more members? This is the amount of members a club has to have to qualify
- Are there genuine domestic addresses on the register of members? Are domestic addresses listed for every member? Are members local to the club? These are all indicators that the member lists are bona fide and are made up of genuine members
- Do members participate in the activities of the club via the internet? It is less likely to be a genuine members' club if this is the case
- Do guest arrangements link a member to every guest? Is there evidence of a signing-in register for guests? Guests must be genuine guests of members and not members of the general public
- Is the 48 hour rule between applying for membership and participating in any gaming properly applied? This is an indication that the club has a proper membership scheme
- Are there annual accounts for more than one year? This would indicate that the club is permanent in nature, rather than temporary
- How is the club advertised and listed in directories, including on the internet? If the club is categorised under 'gaming' or 'poker', it is less likely to be genuine members' club
- What information is provided on the club's website? This can be a useful source of information about the club.
- Are children permitted into the club? Appropriate access to the premises by children may indicate that it is less likely that the club is primarily for gambling activities
- Does the club have a constitution and can it provide evidence that the constitution was approved by the members of the club? This provides further evidence that it is a properly constituted members' club
- Is there a list of committee members and evidence of their election by the members of the club? Can the club provide minutes of committee and other meetings? These are further evidence that the club is a properly constituted members' club.

25.46 The constitution of the club could also indicate whether it is a legitimate members' club. Amongst the things to consider when examining the constitution are the following:

- Who makes commercial decisions on behalf of the club and what are the governance arrangements? Clubs are normally run by a committee made up of members of the club, rather than individuals or managers, who make decisions on behalf of the members. There will normally be a system (consultation, voting, paper ballots, annual general meetings, special meetings, etc) which allows members to be involved in major decisions concerning the management and running of the club. Such arrangements would normally be spelt out in the constitution
- Are the aims of the club set out in the constitution? A lack of aim or aims which involve gaming could indicate that it is not a genuine members' club
- Are there shareholders or members? Shareholders would indicate a business enterprise linked to a commercial club
- Is the members' club permanently established? Clubs can't be temporary and must be permanent in nature
- Can people join with annual or quarterly membership? This would indicate that the club is permanent in nature

- Are there long term membership benefits? This would also indicate that the club is permanent in nature and that it is a genuine members' club. The benefits of membership would normally be set out in the rules of membership.

25.47 Other than bridge and whist clubs, which are separately catered for in regulations, a club cannot be established wholly or mainly for purposes of gaming. In applying for a club gaming permit, a club must therefore provide substantial evidence of activities other than gaming. Useful questions which a licensing authority should consider include:

- How many nights is gaming made available? If gaming is available for all or most nights with little other activity, then it is likely that the club is established wholly or mainly for gaming
- Is the gaming advertised? If gaming is advertised with little or no reference to the other activities of the club, then it is likely that gaming is the main activity of the club and that the gaming is run commercially
- What are the stakes and prizes offered? The stakes and prizes limits must be complied with. Unlimited stakes and prizes are only available to genuine members' clubs once a club gaming permit has been granted. If high stakes and prizes are offered, this is also likely to indicate that gaming is one of the main activities of the club
- Is there evidence of leagues with weekly/monthly/annual winners? This could indicate that the club's main activity is gaming
- Is there evidence of non-playing members? If members participate in gaming exclusively, this is an indication that the main or only activity of the club is gaming
- Are there teaching sessions to promote gaming, such as poker? This could be evidence that the club's main activity is gaming
- Is there tie-in with other clubs offering gaming, such as poker, through tournaments or leagues? This is also an indication that gaming is possibly one of the main activities of the club
- Is there sponsorship by gaming organisations, for example on-line poker providers? Similarly, this could indicate that poker is one of the main activities of the club
- Are participation fees within limits? The licensing authority could consider club records and adverts for gaming, etc. Fees that exceed the limits could indicate that the gaming is run commercially.

25.48 A visit to the premises before granting of the permit may assist the licensing authority to understand how the club will operate.

Factors to consider for gaming under a club machine permit

25.49 The licensing authority should satisfy itself that the gaming on offer meets the conditions set out in the Act and relevant regulations. To do this, the licensing authority may wish to ask questions of the applicant or ensure that the exempt gaming complies with these conditions. The conditions are:

- there must be no rake from the pot (that is, the organiser cannot take any money from the prize fund, or deduct money from the stakes or winnings). Licensing authorities should examine the records for gaming or, if possible, observe or get statements about the pot
- there must be no side bets. This is probably only going to be possible to verify through observation
- participation fees must be within the limits prescribed in the regulations. Is there evidence of excess participation fees in club records, adverts for gaming in or outside of the club or from complaints? Participation fees must not be disguised as charges for dealers, mandatory tipping of dealers, table charges or hire charges. Again, observation of the gaming may be necessary

- prizes must be within the limits prescribed in the regulations. Is there evidence that they are excessive from records at the club, in adverts for gaming, etc? Note that daily and weekly limits must be monitored by the operator and that 'money or money's worth' (for example, goods) counts towards the prize limits
- where the games are poker tournaments or leagues, the licensing authority may find it useful to consult part 29 which sets out how the law applies to poker. This should help the licensing authority to determine whether the gaming is within the law from evidence such as records in the club and adverts for gaming.

Factors to consider when monitoring club gaming permits

25.50 Once the licensing authority has issued a club gaming permit, various aspects need to be considered by licensing authorities in monitoring the club gaming permit. In addition to monitoring whether the club continues to meet the requirements of the Act for a club gaming permit (that is, whether it remains a genuine members' club) and whether the gaming meets the conditions set out in the Act and the relevant regulations.

25.51 Where clubs have computers available for use by members, licensing authorities should be aware that these computers may be taken to be gaming machines in certain circumstances. Generally, a computer is not a gaming machine merely because there is a possibility of accessing a gambling website via the internet. However, a computer will be taken to be a gaming machine if it is knowingly adapted or presented to facilitate or draw attention to the possibility of it being used for gambling.

25.52 Each case will need to be looked at individually and ultimately the decision regarding whether a machine is a gaming machine is one for the courts to make.

25.53 The precise circumstances in which the facilities are offered – including the environment in which they are offered and the relationship with other gambling facilities provided – will need to be taken into account when assessing the status of those facilities. The following indicators may help in making decisions about whether a computer is knowingly adapted or presented to facilitate or draw attention to the possibility of it being used for gambling. This list is not exhaustive, and the presence or absence of any single factor is not necessarily conclusive:

- icons for gambling websites displayed on the desktop screen
- links to gambling websites available via the start menu
- screensavers, desktop wallpapers referring to gambling websites
- internet browsing history or favourites menu containing gambling websites
- promotional material (posters, flyers) indicating the use of computers for gambling
- gambling software downloaded onto a computer
- staff informing customers of the existence of the computer for access to gambling websites
- email messages or other promotional material sent to customers/individuals referring to the availability of computers on premises for gambling purposes.

25.54 Licensing authorities should note that, as a consequence of the Gambling (Licensing and Advertising) Act 2014, gambling operators who advertise to consumers in Great Britain are required to hold an operating licence.

25.55 Any of the factors mentioned in the preceding paragraphs in this section may give rise to the need to review the club gaming permit or take appropriate enforcement action.

25.56 The Commission provides advice and guidance to licensing authorities on permits and related matters and, on a case-by-case basis, will undertake targeted collaborations with licensing authorities in order to establish principle and precedent, and a clear understanding of the legal requirements.

25.57 An agency that may also be able to assist licensing authority enquiries is HM Revenue and Customs. If a club is trading under the auspices of a club gaming permit (as a members' club) but is in fact a commercial club with, for example, their main activity being poker, they would be liable for gaming duty. Licensing authorities should bear in mind that clubs of this nature have premises to maintain, as well as staff and other costs, so the sums involved may be significant.

25.58 Under the Act, a private club with a club gaming permit cannot run the premises wholly or mainly for the purposes of gaming, nor can the club make a profit as all funds must be applied for the benefit of the member.

25.59 There have been occasions where club gaming permits have been misused by individuals seeking personal financial gain. One case led to the successful prosecution of a private member's club owner under the Proceeds of Crime Act 2002. The club owner had been granted a club gaming permit but was later charged with money laundering in relation to the running of an illegal poker club. Full details of the case studies in this area are available on the Commission website www.gamblingcommission.gov.uk.

Maintenance of permits

25.60 The permit 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.

25.61 The holder of the permit must pay to the licensing authority the first annual fee, and an annual fee before each anniversary of the issue of the permit, in accordance with regulations.

25.62 Permits may be amended to meet changing circumstances. Licensing authorities may only refuse a variation if on consideration of a completely new application they would refuse the permit.

25.63 The permit, which is to be kept on the premises it relates to, must be in a form specified by the regulations and, if obtained through the fast-track procedure, must identify the appropriate club premises certificate it relates to. It is an offence not to produce the permit when requested to do so by a constable or an enforcement officer.

25.64 If a permit is lost, stolen or damaged, the holder may apply for a replacement, subject to payment of a prescribed fee. The licensing authority must grant the application if it is satisfied that the permit has been lost, stolen or damaged and, where the permit is lost or stolen, a report has been made to the police. It should issue a copy and certify it as a true copy.

25.65 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 authority must inform the police and the Commission when a permit has been surrendered or lapsed.

Cancellation and forfeiture of permits

25.66 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.

25.67 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

25.68 Before cancelling a permit, the licensing authority must give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make. The authority must hold a hearing if the permit holder so requests and must 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 authority must notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

Renewal of permits

25.69 In England and Wales, 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. In Scotland, the Club Gaming and Club Machine Permits (Scotland) Regulations 2007[81] apply. Permits granted in terms of these Regulations do not expire, although they can cease to have effect in certain circumstances, can be cancelled and can be varied.

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

25.71 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. This does not apply in Scotland.

Appeals

25.72 The rights of appeal in relation to permits are discussed in Part 12 of this Guidance.

[81] The Club Gaming and Club Machine Permits (Scotland) Regulations 2007 SI 2007/504

Part 26: Premises licensed to sell alcohol

26.1 It is important to remember that gambling must remain ancillary to the main purpose of the premises and the exemptions and permits are reliant on the premises holding a valid alcohol licence. Experience indicates that, in circumstances where breaches of gambling regulations occur, licensing authorities have a powerful lever in securing compliance, due to their ability to review the alcohol licence.

26.2 S.279-284 of the Act only apply to premises in respect of which an on-premises alcohol licence (in England and Wales) or a premises licence under the Licensing (Scotland) Act 2005 has been issued – provided that, in the case of Scotland, it is not a licence authorising the sale of alcohol for consumption off the premises only – and that have a bar at which alcohol is served, without a requirement that alcohol is served only with food. So any hotel, restaurant or pub that has a bar can offer gambling under Part 12 of the Act, but hotels and restaurants that serve alcohol only with food cannot.

26.3 Licensing authorities might seek to reassure themselves that a premises has not applied for an alcohol licence under the Licensing Act 2003 / Licensing (Scotland) Act 2005 with the sole aim of benefiting from the associated machine and exempt gaming entitlements. It is expected that all gambling made available on the premises will remain ancillary to the premises main activity. Where concerns exist that this might not be the case, and the premises is primarily used to make gambling available, the licensing authority might choose to exercise its powers under s.284 of the Act and remove the exemption.

Automatic entitlement to two machines

26.4 S.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 or relevant Scottish licence must give notice to the licensing authority of their intention to make gaming machines available for use, and must pay the prescribed fee (as set by regulations)[82]. If the person ceases to be the holder of the relevant alcohol licence for the premises, the automatic entitlement to the two gaming machines also ceases. Whoever applies for the new premises alcohol licence would also need to apply under s.282(2). A renewal of the automatic entitlement is required only where there is a change in the alcohol licence premises holder (either due to a transfer of licence or application for new licence), not for a change in designated premises supervisor /designated premises manager alone. As there is no requirement to stipulate whether the alcohol licensed premises intends to site category C or D or one of each category, a re-notification should not be required for a change in the mix of gaming machines made available provided it remains within the automatic entitlement to two machines of either category C or D.

26.5 This is not an authorisation procedure. Licensing authorities have 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.

[82] SI No 1832/2007: The Gaming Machines in Alcohol Licensed Premises (Notification Fee)(England and Wales) Regulations 2007
SSI No 311/2007: The Gambling Act 2005 (Fees No. 2)(Scotland) Regulations 2007

Removal of exemption

26.6 Licensing authorities can remove the automatic authorisation in respect of any particular premises by making an order under s.284 of the Act. They 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.

26.7 Before making an order, the licensing authority must 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 must hold a hearing if the licensee so requests and must 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 authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' court or the Sheriff.

Licensed premises gaming machine permits

26.8 Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises[83]. Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines under s.282 of the Act.

26.9 Holders of licensed premises gaming machine permits are required to comply with a code of practice issued by the Commission on the location and operation of machines, Code of practice for gaming machines in clubs and premises with an alcohol licence.

26.10 The detail of how to apply for licensed premises gaming machine permits is set out in Schedule 13 of the Act (for England and Wales) and in The Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007 (for Scotland)[84].

26.11 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. An application may not be made if a premises licence under the Act is in effect at the premises. The application must be made to an authority in whose area the premises are wholly or partly situated. The Act requires an application to include information on the premises to which it relates and the number and category of gaming machines sought. Apart from this it is for the licensing authority to direct the form and manner of the application and what additional information and documents are required.

26.12 In determining an application, the licensing authority must have regard to the licensing objectives and to this Guidance. They may also take account of any other matters that are considered relevant to the application. The application does not require notification to the Commission or police before determination, however, licensing authorities are able to specify this as a requirement should they see fit.

[83] Alcohol licensed premises as described in s.277 of the Act
[84] SI 505/2007 The Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007

26.13 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 must issue the permit as soon as possible after that. Where they refuse the application they must notify the applicant as soon as possible, setting out the reasons for refusal. The licensing authority must 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.

26.14 The permit must specify the person or organisation to which it is issued, the number and category of gaming machines for which the permit has effect, the address of the premises and the date on which it takes effect.

26.15 The permit holder can apply to the licensing authority to amend the permit to reflect a change in the holder's name. They must comply with the request, provided the prescribed fee is paid.

26.16 The permit holder must keep the permit on the premises and it must be produced on request for inspection by a constable, enforcement officer or local authority officer. Not to do so is an offence. If the permit is lost, stolen or damaged, the holder may apply to the issuing authority for a copy, accompanied by the prescribed fee.

26.17 There are no renewal provisions for this class of permit because they are indefinite and continue in force for so long as the premises continues to have an alcohol licence and the holder of the permit continues to hold that licence. The permit can lapse if the holder surrenders it to the licensing authority.

26.18 The holder may apply to vary the permit by changing the number and/or category of machines authorised by it.

26.19 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 must 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.

26.20 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.

26.21 Where a person applies to a licensing authority for the transfer of an alcohol premises licence, they will also need to apply separately for the transfer of the licensed premises gaming machine permit. Both applications will require a fee to be paid.

26.22 The applicant may appeal to the Magistrates' court or Sheriff against an authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

Exempt gaming

26.23 Exempt gaming is detailed at paragraphs 25.10 to 25.21 in Part 25 of this Guidance.

26.24 A fee may not be levied for participation in the equal chance gaming offered by an alcohol-licensed premises under the exempt gaming rules. A compulsory charge, such as charging for a meal, may constitute a participation fee, depending on the particular circumstances.

26.25 Information about poker in alcohol-licensed premises can be found in Part 29 of this Guidance.

Removal of exemption

26.26 Licensing authorities 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.

26.27 Before making an order, the licensing authority must give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The authority must hold a hearing if the licensee so requests and must 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 authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' court or the Sheriff.

Bingo

26.28 Alcohol-licensed premises are able to provide facilities for bingo under s.281 of the Act, provided that the restrictions in s.281 are complied with. These include that, in any seven day period, the aggregate stakes or prizes for bingo must not exceed £2,000. If that limit is exceeded, the relevant operating and personal licences must be sought. It should be noted, however, that the bingo will still be subject to the conditions for exempt gaming prescribed in s.279 of the Act. Further details are provided in part 18 of this Guidance.

26.29 The bingo must comply with any code issued by the Commission under s.24 of the Act.

Betting

26.30 Commercial betting, regardless of the level of stakes, is not permitted in alcohol-licensed premises. Those who facilitate such betting in pubs are providing illegal facilities for gambling and are breaking the law. Even where publicans accept bets on behalf of licensed bookmakers, or just facilitate betting through their own telephone betting accounts, they are acting as betting intermediaries and could be prosecuted.

26.31 Licensed bookmakers who knowingly accept bets from pub customers through a single account are encouraging illegal gambling and may be in breach of the Act and could risk losing their licence.

26.32 Licensed bookmakers with a remote or ancillary licence can accept telephone bets from a customer watching an event in a pub, as long as that customer has an individual account with them. It is illegal for bookmakers or their agents to sit in the pub taking bets themselves.

26.33 It should be noted, however, that the prohibition on commercial betting in alcohol-licensed premises does not apply in relation to tracks in certain circumstances. Where the betting takes place under the authority of a track premises licence, it can take place in an area on the track licensed for the sale of alcohol, provided that the licensing authority has approved the betting area as part of the track premises licence application. However, this does not apply in relation to separate and discrete premises on the track where betting takes place under the authority of a general betting licence. In this case, the consumption of alcohol on those premises is prohibited.

Commission codes of practice

26.34 The Commission has issued a code of practice under s.24 of the Act in respect of exempt equal chance gaming.

26.35 The code of practice requires owners/licensees to adopt good practice measures for the provision of gaming in general and poker in particular. The code also sets out the stakes and prizes limits laid out in regulations.

26.36 The emphasis of the regulations and the code of practice is on self-regulation by the management of the premises and licensing authorities should take a strong line in cases where breaches are detected.

26.37 Under s.310(2) of the Act, an authorised licensing authority officer may enter premises with an alcohol licence for the purpose of:

- determining whether the gaming satisfies the conditions in s.279 of the Act
- in the case of bingo played on the premises, determining:
    i. whether the terms and conditions of any relevant operating licence are being complied with
    ii. whether s.281 of the Act applies
- ascertaining the number and category of gaming machines being made available for use on the premises.

26.38 Additionally, the Commission's Code of practice on gaming machines in alcohol-licensed premises includes sections relating to:

- the location and operation of machines, which are a requirement of machine permits
- access to gambling by children and young persons, which sets out good practice guidance for permit holders
- customer complaints and disputes, which again sets out good practice for permit holders.

Scotland

26.39 The provisions of the Act which relate to gaming and gaming machines in licensed premises also apply to Scotland. In Scotland they apply to premises which have a premises licence granted under the Licensing (Scotland) Act 2005, provided that it is not a licence authorising the sale of alcohol for consumption off the premises only.

26.40 The provisions affecting licensed premises gaming machine permits in Scotland have been set out separately. This is because Schedule 13 of the Act does not apply in Scotland. Instead, Scottish Ministers have power under s.285 of the Act to make regulations about the regime in Scotland. The same also applies to gaming and gaming machine permits for clubs in Scotland. Schedule 12 of the Act does not apply in that case and, instead, Scottish Ministers have the power to make provision in regulations about the regime for club gaming and club machine permits. The Scottish Executive has made separate regulations in this regard[85]. It is also important to note that, in Scotland, Schedule 12 does not apply to clubs licensed to sell alcohol (by virtue of s.274(2) of the Act).

Protection of children and young persons

26.41 The Commission's code of practice relating to the location and operation of gaming machines provides that, in respect of gaming machines in alcohol-licensed premises, the licence holder or permit holder should put into effect procedures intended to prevent underage gambling. This should include procedures for:

- checking the age of apparently underage customers
- refusing access to anyone who appears to be underage and who tries to use category B or C gaming machines, and cannot produce an acceptable form of identification.

26.42 The code requires that all gaming machines situated on the premises must be located in a place within the premises where their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means. Alcohol premises licence holders or permit holders must have in place arrangements for such supervision.

26.43 In respect of exempt equal chance gaming, the code requires the gaming supervisor to put into effect procedures designed to prevent underage gambling. These should include:

- holding the gaming in premises or parts of premises which are restricted to adults
- checking the age of potentially underage players
- refusing access to the gaming to anyone apparently underage who cannot produce an acceptable form of age verification and identification.

26.44 Procedures should be in place for dealing with cases where an underage person repeatedly attempts to gamble, including verbal warnings and reporting the offence to the Commission and the police. The gaming supervisor should also take reasonable steps to ensure that all employees understand their responsibilities under the code of practice.

Prohibited gaming

26.45 No bankers' games may be played in alcohol licensed premises, commercial clubs or in members' clubs/miners' welfare institutes unless they have a club gaming permit. With a permit the two bankers' games of pontoon and *chemin de fer* may be played. Otherwise, games such as blackjack, roulette and any others which involve staking against the holder of the bank are unlawful on such premises.

[85] SSI No 505/2007: The Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007 & SSI No 504/2007: The Club Gaming and Club Machine Permits (Scotland) Regulations 2007

Part 27: Prize gaming and prize gaming permits

Prize gaming

27.1 S.288 defines gaming as 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.

Prize gaming permits

27.2 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.

Prize gaming without a prize gaming permit

27.3 A **casino** operating licence gives authority to provide all games of chance, except any form of bingo, which is excluded from the scope of the casino licence by s.68(3)(b). If a casino wishes to provide bingo generally, it would need to obtain a bingo operating licence, however, this is subject to the constraint that only one premises licence may be issued for any particular premises at any time (s.152) and so the premises would have to be distinct. Only casino premises licences for 2005 Act large casinos permit bingo to be offered within the casino premises (s.174). If a casino wishes to offer prize bingo, it could obtain a prize gaming permit, however, it is more likely that the casino will apply for an operating licence to cover all forms of bingo (subject to the constraint already mentioned).

27.4 S.291 enables any form of prize gaming to be provided in premises in reliance on their bingo operating licence. This provision allows **bingo operators** to provide prize gaming in respect of casino games as well as games of equal chance, which they would not otherwise be able to do under the conditions of their operating licence. In the case of bingo operators, the Commission or Secretary of State could impose conditions preventing specified games from being offered, although there are currently no plans to do so. Additionally, limits have been set on individual and aggregated stakes and prizes for prize gaming in bingo premises, the purpose of which is to ensure that such gaming is restricted to low stakes[86].

27.5 S.290 provides that any type of prize gaming may be provided in **adult gaming centres** (AGCs) and licensed family entertainment centres (FECs), and that unlicensed FECs may only offer equal chance prize gaming under the auspices of their gaming machine permit, without the need for a prize gaming permit.

27.6 S.292 provides that **travelling fairs** are also able to offer equal chance prize gaming without a permit, provided that, taken together, the facilities for gambling are an ancillary amusement at the fair.

27.7 Children and young persons may participate in equal chance prize gaming only.

27.8 S.293 sets out four conditions that permit holders, AGCs, FECs and travelling fairs must comply with to lawfully offer prize gaming. These are:

- the limits on participation fees, as set out in regulations[87], 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

[86] SI No 2257/2007: The Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 and SI No 774/2010: The Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2010
[87] SI No 1777/2007: The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2007

- 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)
- participation in the gaming must not entitle the player to take part in any other gambling.

Application for a prize gaming permits

27.9 Schedule 14 sets out the application process and regulatory regime for prize gaming permits. In considering an application, the licensing authority shall have regard to this Guidance and need not, but may wish, to have regard to the licensing objectives.

27.10 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. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

27.11 The authority must specify the form and manner in which the application should be made, and specify what information and documents (for example, insurance certificates, plans of building) they require to accompany the application. An application must specify the premises and the nature of the gaming for which the permit is sought.

27.12 In their statement of policy, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant. For example, if the premises will appeal to children and young persons, licensing authorities should think about matters relating to protection of children from being harmed or exploited by gambling and where necessary consult the Safeguarding Children Board or local equivalent. Licensing authorities should ask the applicant to set out the types of gaming that they are intending to offer and 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.

Granting or refusing a permit

27.13 The licensing authority can grant or refuse an application for a permit, but cannot add conditions. The licensing authority may grant a permit only if they have consulted the chief officer of police about the application. The licensing authority will want to take account of any objections that the police may wish to make which are relevant to the licensing objectives. 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.

27.14 A permit cannot be issued in respect of a vessel or a vehicle.

27.15 The licensing authority may 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.

27.16 If a permit is granted, the licensing authority must issue it as soon as is reasonably practicable. The Secretary of State has set out the form of the permit in regulations[88]. The permit must specify the person to whom it is issued, the premises to which it relates, the nature of the gaming, the date on which it takes effect, the date on which it expires, and the name and address of the licensing authority issuing the permit. Scottish Ministers have made separate regulations[89] in respect of fees associated with prize gaming permits.

[88] SI No 455/2007: The Gambling Act 2005 (Prize Gaming) (Permits) Regulations 2007
[89] SSI No 309/2007: The Gambling Act 2005 (Fees)(Scotland) Regulations 2007

27.17 If the person to whom the permit is issued changes their name, or wants to be known by another name, they may send the permit to the issuing authority for amendment, together with the appropriate fee. The authority must comply with the request and return the permit to the holder.

Duration, lapse, surrender and forfeiture

27.18 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.

27.19 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.

27.20 Where a permit lapses, the Act provides that the permit may be relied upon for a period of six months after it has lapsed, by the following persons:

- the personal representative of the holder (in the case of death)
- the trustee of the bankrupt estate (in the case of individual bankruptcy)
- the holder's interim or permanent trustee (in the case of an individual whose estate is sequestrated)
- the liquidator of the company (in the case of a company that goes into liquidation).

27.21 The permit may also cease to have effect if the holder surrenders it to the licensing authority. Notice of such surrender must be accompanied by the permit, or an explanation as to why the permit cannot be produced.

27.22 If the permit holder is convicted of a relevant offence (that is an offence listed in Schedule 7 of the Act), the court may order the forfeiture of the permit. The court must order the holder to deliver the permit to the licensing authority, or provide a statement explaining why it is not reasonably practicable to produce it. The court must notify the licensing authority that it has made a forfeiture order as soon as is reasonably practicable after making the order. Such an order may be suspended by a higher court pending appeal against conviction of a relevant offence.

Renewal

27.23 In accordance with paragraph 18 of Schedule 14, 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.

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

Maintenance

27.25 The permit must be kept on the premises and it is an offence not to produce it when requested to do so by a constable, an enforcement officer, or an authorised local authority officer.

27.26 If a permit is lost, stolen or damaged, the holder may apply for a replacement subject to paying the fee set by the Secretary of State and Scottish Ministers. The licensing authority must grant the application if it is satisfied that the permit has been lost, stolen or damaged and a report has been made to the police. It should issue a copy and certify it as a true copy.

Appeals

27.27 The rights of appeal in relation to permits are discussed in Part 12 of this Guidance.

Part 28: Non-commercial and private gaming, betting and lotteries

28.1 The Act permits gambling without any specific permissions under limited circumstances, namely:

- non-commercial gaming
- private gaming and betting
- incidental lotteries
- private society lotteries
- work lotteries
- residents' lotteries
- customer lotteries.

Children and young persons are permitted to participate in all of the above, except for customer lotteries where children are not permitted to participate.[90]

28.2 With regard to exempt lotteries, this part addresses incidental lotteries only. Further information about exempt lotteries in general is available in the Gambling Commission's publication *Organising small lotteries: Advice on lotteries that do not require a licence or registration*.

Non-commercial gaming

28.3 The Act permits non-commercial gaming if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

28.4 So it would be possible to raise funds providing the proceeds were, for example, to support a local hospital appeal or a charitable sporting endeavour. Additionally, events such as race nights or casino nights may be permitted if they comply with the regulations and profits go to a 'good cause'.

28.5 S.297(3) of the Act defines proceeds of an event as:

a) the sums raised by the organisers, whether by way of fees for entrance or for participation, sponsorship, commission from traders, or otherwise
minus
b) amounts deducted by the organisers in respect of costs reasonably incurred in organising the event.

However, sums raised by other persons will not form part of the proceeds of the event and may be appropriated for private gain. An example would be refreshments provided at the event by an independent third party.

28.6 If someone uses any profits from non-commercial gaming for something other than the specified purpose, then they commit an offence under s.301 of the Act, which can result in a fine or imprisonment.

28.7 The Act identifies two types of permissible non-commercial gaming:

- prize gaming which must comply with the conditions set out in s.299 of the Act
- equal chance gaming which must comply with the conditions set out in s.300 of the Act and the conditions prescribed in regulations.

[90] S.46 and s.48 of the Act

Non-commercial prize gaming

28.8 An organiser does not need to have an operating or premises licence nor a prize gaming permit, provided that the conditions in s.299 are met, namely:

- players are told that the purpose of the gaming is to raise money for a specified charitable, sporting, athletic or cultural purpose
- profits are not for private gain
- the event cannot take place in a venue (other than a track) which has a premises licence. If at a track, the premises licence cannot be in use (in effect no betting can be taking place) and no temporary use notice can have effect
- the gaming must be on the premises and not be remote gaming.

28.9 In these circumstances, prize gaming occurs 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 will be determined by the operator before play commences.

Non-commercial equal chance gaming

28.10 The conditions set out under s.300 are as follows:

- All players must be told what purpose the money raised from the gaming is going to be used for – which must be something other than private gain – and the profits must be applied for that purpose
- The gaming must also comply with regulations[91]:
  - limiting the maximum payment each player can be required to make to participate in all games at an event to £8
  - limiting the aggregate amount or value of prizes in all games played at an event to £600, although where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is permitted
- The non-commercial event cannot take place on premises (other than a track) which hold a premises licence, nor on a track at a time when activities are being carried on in reliance on a premises licence, nor on premises at a time when activities are being carried on in reliance on a temporary use notice. There is nothing to stop such premises running charitable or other gambling events to raise money for good causes, but they should do so using the gambling permissions granted to them by their premises licence or use notice. The one exception to this is that a non-commercial event can take place at a track, provided no licensed gambling activities are taking place at the same time. This enables a track to be used for non-commercial gambling when races are not taking place
- The gaming must be non-remote gaming. In other words, the authorisation can only apply to gaming which takes place at events, on premises, and for gaming in person.

Private gaming

28.11 Private gaming can take place anywhere to which the public do not have access, for example, a workplace. Domestic and residential gaming are two subsets where non-equal chance gaming is allowed.

- Domestic gaming is permitted without the need for permissions if:
  - it takes place in a private dwelling
  - it is on a domestic occasion
  - no charge or levy is made for playing.

[91] SI No 2041/2007: The Gambling Act 2005 (Non-Commercial Equal Chance Gaming) Regulations 2007

- Residential gaming is permitted when:
  - it takes place in a hall of residence or hostel not administered in the course of a trade or business
  - more than 50% of the participants are residents.

28.12 Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers should be advised to seek their own legal advice before organising events of this nature.

28.13 It is a condition of private gaming that no charge (by whatever name called) is made for participation and Schedule 15 to the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is expressed to be voluntary or compulsory, particularly if customers are prevented from playing if they do not make the 'voluntary' donation, or there is strong peer pressure to make the donation. A relevant decided case in another licensing field is that of *Cocks v Mayner* (1893) 58 JP 104, in which it was found that an omnibus, said to be available free of charge but whose passengers were invited to make a voluntary contribution, was 'plying for hire' without the appropriate licence.

28.14 Additionally, the decided cases of *Panama (Piccadilly) Ltd v Newberry* (1962) 1WLR 610 and *Lunn v Colston-Hayter* (1991) 155 JP 384 are helpful in guiding licensing authorities in deciding whether a person ceases to be a member of the public merely because they have agreed to become a member of a club.

28.15 In the first of these cases, which related to a strip show, the Court said that an applicant for membership of the club and admission to the show was and remained a member of the public, as the whole purpose of membership was to get members of the public to see the show and there was no sufficient segregation or selection to cause an applicant to cease to be a member of the public and to acquire a different status as a member of a club on signing his application form and paying the charge. In the second case, which related to an acid house party, the judge said that it was impossible, merely because of the existence of a formal scheme of club membership enforced to the extent of requiring tickets to be obtained 24 hours in advance of the event, to regard those who obtained such membership and tickets as having ceased to be members of the public.

28.16 This means that people joining a club to attend and take part in a private event are likely to remain members of the public, particularly if club membership is acquired only a short time before, in order to attend the event. The courts will not readily allow membership status to be abused in order to circumvent the law in this way.

Private betting

28.17 The Act also says that betting is private if it is domestic betting or workers' betting. Domestic betting is a betting transaction made on premises in which each party to the transaction habitually resides. Workers' betting is where a betting transaction is made between persons who are employed by the same employer. A person does not commit an offence under s.33 or s.37 of the Act if he or she provides facilities for private betting.

Incidental lotteries

28.18 An incidental lottery is a lottery that is incidental to an event. The lottery must be promoted wholly for a purpose other than that of private gain, that is, the lottery can only be promoted for a charity or other 'good cause'. Examples may include a lottery held at a school fete or at a social event such as a dinner dance.

Non-commercial 'casino night'

28.19 A non-commercial casino night is an event where participants stake money on casino-style games, such as poker or roulette, at a non-commercial event, where none of the money the organisers raise from the event is used for private gain.

28.20 Apart from reasonable costs, proceeds (including any entrance fees, sponsorship, the difference between stakes placed and payout made):

- must not be used for private gain
- must all be given to a good cause.

Reasonable costs would include costs incurred by providing the prizes. If third parties are selling goods or services at the event, this does not count as money raised for the charity or good cause and can be retained by that third party.

28.21 A non-commercial casino night can be run without a licence, or any other form of permission, providing the operation of the gaming falls into one of the three categories discussed below.

28.22 Organisers should note that, under the Act, it is illegal to organise a commercial casino night outside of a licensed casino. However an application can be made for a temporary use notice (TUN) in respect of other premises to offer gaming on a commercial basis, so far as the appropriate operating licence covers the proposed activities in the application, but then only in respect of equal chance gaming organised on a tournament basis with a single overall winner[92]. There can, however, be more than one competition with a single winner held at the individual event covered by a specific TUN.

Casino night as non-commercial prize gaming

28.23 Casino nights can be held as non-commercial prize gaming. The players must be told what good cause will benefit from the profits of the gaming before placing a bet. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised. In non-commercial prize gaming, the casino gaming determines the individual winner or winners, for example by counting who has the most casino chips at a set time. The winners are then awarded the prizes that have been advertised in advance.

Casino night as non-commercial equal chance gaming

28.24 Casino nights can also be run as non-commercial equal chance gaming, where the chances are equally favourable to all participants and players are not competing against a bank. In non-commercial equal chance gaming, the charitable funds are usually raised through an entrance fee, participation fee, or through other payments related to the gaming. The maximum amount that a player may be charged is £8 per day which includes entrance or participation fees, stakes and any other payments in relation to the gaming. Organisers must ensure that the total amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is allowed.

[92] SI No 3157/2007: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

Casino night as private gaming

28.25 A casino night may also be run under the private gaming provisions in the Act. Private gaming may only occur in a place to which the public does not have access, normally a private dwelling, hostel, hall of residence or similar establishment. No charge may be made for participation in private gaming including an entrance fee or other charge for admission, nor may any amounts be deducted from stakes or prizes. No profits can be made from private gaming, irrespective of how the organiser intended to use those profits and, thus, even if intended for charitable purposes.

28.26 Private gaming is restricted to equal chance gaming except where it is domestic or residential gaming.

28.27 Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place, as detailed at paragraph 28.11 above.

Non-commercial 'race night'

28.28 Race nights are permitted for charitable purposes but, in some circumstances, can only be undertaken by a licensed betting operator and after appropriate notification to the licensing authority. Further details are set out at paragraph 28.36 below.

28.29 A non-commercial race night is an event where participants stake money on the outcome of live, recorded or virtual races.

28.30 Apart from reasonable costs, proceeds which includes any entrance fees, sponsorship, and the difference between stakes placed and payout made:

- must not be used for private gain
- must all be given to a good cause.

Reasonable costs would include costs reasonably incurred, for example by providing any prizes and for betting slips. If third parties are selling goods or services this does not count as money raised for the charity or good cause and can be retained by that third party.

Race night as non-commercial gaming

28.31 A non-commercial type of race night occurs where the selection of a 'horse' by a participant is totally dependent on chance, and where no 'odds' or 'form' are available to assist the gambler's selection. An example would be the use of archive films of horseracing without revealing the details of each race.

28.32 Such nights can be run without a licence, or any other form of permission, providing the operation of the gaming falls into one of the three categories discussed below.

Incidental lottery

28.33 It is possible to operate a race night as an incidental lottery[93]. An incidental lottery is a lottery that is incidental to an event. The lottery must be promoted wholly for a purpose other than that of private gain, that is, the lottery can only be promoted for a charity or other 'good cause'. The event may last more than a single day.

28.34 There are no limits on the amount that players may be charged to participate in an incidental lottery, but no more than £500 may be deducted from the proceeds of the lottery for the cost of prizes, which may be in cash or kind. Other prizes may be donated

[93]Incidental lotteries must comply with conditions set out in Schedule 11 of the Act, The Gambling Act 2005 (Incidental Lotteries) Regulations 2016 (SI 2016 No 239) and The Legislative Reform (Exempt Lotteries) Order 2016 (SI 2016 No124)

to the lottery and there is no maximum limit on the value of donated prizes. No more than £100 may be deducted from the proceeds in respect of the expenses incurred in organising the lottery, such as the cost of printing tickets, hire of equipment etc.

28.35 The organisers can only sell tickets at the location and during the event. The results of the lottery can be drawn at the event or after it has finished. It is recommended that the organisers of the lottery make it clear to participants when the result of the lottery will be decided. The lottery cannot involve a rollover of prizes from one lottery to another.

28.36 An example of a 'race night' run as an incidental lottery is where a 'horse' is picked at random for each paying customer, who is then awarded a prize if the horse 'wins' the race.

Non-commercial prize gaming

28.37 Race nights can be held as non-commercial prize gaming. The players must be told what good cause will benefit from the profits of the gaming. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised. In non-commercial prize gaming, the 'race' determines the individual winner or winners, for example, those who have paid are allocated or select a named horse in the race. The winners are then awarded the prizes that had been advertised in advance.

Non-commercial equal chance gaming

28.38 Race nights can also be run as non-commercial equal chance gaming, where the chances are equally favourable to all participants and players are not competing against a bank.

28.39 The maximum amount that a player may be charged is £8 per day which includes entrance or participation fees, betting stakes and any other payments in relation to the gaming. Organisers must ensure that the total amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is allowed. This could take place, for example, where each participant pays a fee for a randomly selected 'horse' in each 'race' and the participant with the winning horse or chooser of the winning horse receives a prize commensurate with the stakes placed.

Race night as private gaming

28.40 A non-commercial race night may also be run under the private gaming provisions in the Act. Private gaming may only occur in a place to which the public does not have access, such as a private dwelling, hostel, hall of residence or similar establishment. No charge may be made for participation in private gaming including an entrance fee or other charge for admission, nor may any amounts be deducted from stakes or prizes. Thus, no profits can be made from private gaming, irrespective of how the organiser intended to use those profits, and not even for charitable purposes.

Race night as a betting event

28.41 A fundraising race night can be run as a betting event at a track where there is a track premises licence in place. Where there is no track premises licence in place for the track, the organiser of such an event will need to give notice under the occasional use notice (OUN) procedure. Licensing authorities are reminded that a track is defined by s.353 of the Act as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes places, such as a football ground, golf course or an athletics stadium. The person responsible for the administration of events on the track must serve notice on the licensing authority and copy it to the chief officer of police for the area. Further details on the procedure for OUNs can be found in Part 15. At such an event, the person administering the betting must be a licensed bookmaker.

Part 29: Poker

Introduction

29.1 Poker is a card game which, involves elements of both chance and skill and is therefore classified as a game of chance under the Act by virtue of s.6(2). There are many variations on the game of poker, but this Part deals primarily with equal chance poker where players compete against each other on equal terms.

29.2 In most forms of equal chance poker, players bet or stake progressively into a communal pot or kitty, with the player holding the best hand at the end of the game winning the accumulated stakes.

29.3 Non-equal chance poker, on the other hand, is where the banker or dealer participates in the game and holds a mathematical edge over the other players. Unequal chance poker may only be played in licensed casinos or, if it is 'domestic' or 'residential' gaming, under the private gaming provisions in the Act.

29.4 This Part sets out all the circumstances in which poker can be legally provided. These circumstances include poker:

- in casinos (including under temporary use notices)
- as exempt gaming in clubs and alcohol-licensed premises
- under a club gaming permit
- as non-commercial gaming poker
- as private gaming.

Poker in casinos

29.5 Poker can be played in casinos licensed by the Commission. Casinos can also run poker tournaments at temporary venues, for a limited amount of time, under temporary use notices (TUNs). Further information in relation to TUNs is at Part 14.

29.6 Casinos can offer both equal chance and unequal chance poker, except where the poker is provided under a TUN, in which case it can only be equal chance poker.

29.7 Where a third party organisation is involved in a poker competition held in a licensed casino, the casino operator must bear full responsibility for that competition.

29.8 Where an online competition culminates in live competition in a casino, the online partner may provide systems and staff for the event but responsibility lies with the operator whose premises are being used.

29.9 A casino may have a commercial relationship with an agent to promote poker in the casino, but the poker games that result are the responsibility of the casino and not of the agent. Further information on poker in a licensed casino can be found in the Commission's advice on poker played in non-remote casinos.

Poker as exempt gaming in clubs and alcohol-licensed premises

29.10 Exempt gaming is equal chance gaming generally permissible in any club or alcohol-licensed premises. Such gaming should 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.

29.11 A fee may not be levied for participation in poker offered by alcohol-licensed premises under the exempt gaming rules. A compulsory charge, such as charging for a meal, may constitute a participation fee, depending on the particular circumstances. However, clubs may charge a participation fee. The amount they may charge is as prescribed in regulations[94]. See Appendix C for further details.

29.12 In order for the poker to qualify as exempt gaming, clubs and alcohol-licensed premises may not charge a fee on games or levy or deduct an amount from stakes or winnings. The gaming should also be supervised by a nominated gaming supervisor and comply with any code of practice issued by the Commission under s.24 of the Act.

29.13 Poker clubs established primarily for the purpose of providing poker or other gaming require Commission operating licences and premises licences. Further information is available in the Commission's quick guides poker in pubs and poker in clubs.

Removal of exemption for alcohol-licensed premises

29.14 Licensing authorities can remove the automatic authorisation for exempt gaming in respect of any particular alcohol-licensed premises by making an order under s.284 of the Act (see also Part 26). That section provides for the licensing authority to make such an order 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.

29.15 Such an order could be used by a licensing authorities where, for example, they discover that poker is being offered in alcohol-licensed premises that consistently breaches the prescribed limits on stakes and prizes, participation fees are being charged for the poker, amounts are deducted from stakes or winnings, or poker (and other gaming) is the main activity offered on the premises.

Code of practice for exempt equal chance gaming

29.16 The Commission has issued a code of practice under s.24 of the Act in respect of exempt equal chance gaming.

29.17 The code of practice requires owners/licensees/clubs/welfare institutes to adopt good practice measures for the provision of gaming in general, and poker in particular. The code also sets out the stakes and prizes limits and the limits on participation fees (for clubs) laid out in regulations.

Poker in alcohol-licensed premises

29.18 The Commission actively engages with the larger national and regional organisers of poker leagues to remind them of the limited exemptions that apply to poker being offered in pubs. Infringements of such requirements as stake and prize limits which are localised are normally best managed by the local authority responsible for issuing the alcohol premises licence. Template letters published on the Commission's website have proved effective in assisting management of such cases.

[94] SI No 1944/2007: The Gambling Act 2005 (Exempt Gaming in Clubs) Regulations 2007

29.19 Gaming is only covered by the Act if it is played for prizes of money or money's worth. However, since 2004 a number of poker tournaments and leagues have been established in alcohol-licensed premises based on playing for points. In some leagues the organisers offer 'prizes' at the end of a series of weekly games for the players with the most points.

29.20 It is likely that the association of a prize with a monetary value with a game or series of games constitutes gaming, certainly by the latter stages of the competition. If the eventual prize is worth more than the maximum prize set out in regulations then it could be unlawful gaming. For example, if a tournament simply involves a series of straightforward 'knockout' qualifying rounds, culminating in a 'final' game, then the winner's prize in the final – whether it comprises the stakes laid in that game, a separate prize provided by the organiser, or a combination of the two – must not exceed £100. The regulations set a limit of £100 on a prize that may be won in any game of poker (in a pub). In a knockout tournament, the overall prize is clearly winnable in a single game (the 'final') and is therefore won in a game of poker and subject to the prize limit. The stake and prize limits must also, of course, be applied to each game in the tournament.

29.21 Alternatively the prize competed for may be the opportunity to play in 'invitational cash tournaments'. Notwithstanding that these 'prizes' may be of an uncertain value, and are likely to be held in mainstream gaming venues under regulated conditions, usually a casino, the Act prohibits gaming in alcohol licensed premises being linked to gaming in any other premises. Players competing across premises for a 'prize' are likely to be engaged in linked gaming, which is unlawful (s.269(5) of the Act). Consequently, organisers should not host events where players are competing against players in other premises for a prize.

29.22 In some types of tournaments there will be no single 'final' game in which it can be said with certainty that the player won the overall prize. In such circumstances, one should look to the individual games played by the overall winner and ensure that the overall prize does not cause any of those individual games to exceed the maximum £100 prize limit per game and the maximum stake of £100 per day.

29.23 For examples of poker tournament, league and competitions games and prize and stake examples see Appendix H.

Poker under a club gaming permit

29.24 A club gaming permit can only be granted to a members' club (including a miners' welfare institute), but cannot be granted to a commercial club or other alcohol-licensed premises.

29.25 Other than in the case of clubs established to provide facilities for gaming of a prescribed kind (currently bridge and whist), clubs seeking club gaming permits must be established 'wholly or mainly' for purposes other than gaming. When a club gaming permit is granted there are no limits on the stakes and prizes associated with poker.

29.26 If a club established to provide facilities for gaming of a prescribed kind (currently bridge and whist) has a club gaming permit, it may not offer any other gaming besides bridge and whist. If such a club does not have a permit, it may provide exempt gaming provided it is not established to function for a limited period of time and it has at least 25 members. If it wishes to offer other non-exempt gaming it will require a Commission casino operating licence and any relevant personal licences.

29.27 The poker which a club gaming permit allows is subject to conditions:
(a) in respect of equal chance gaming:

- the club must not deduct money from sums staked or won
- the participation fee must not exceed the amount prescribed in regulations

- the game takes place on the premises and must not be linked with a game on another set of premises.

Two games are linked if:

- the result of one game is, or may be, wholly or partly determined by reference to the result of the other game or
- the amount of winnings available in one game is wholly or partly determined by reference to the amount of participation in the other game, and a game which is split so that part is played on one site and another part is played elsewhere is treated as two linked games
- only club members and their genuine guests participate.

(b) in respect of other games of chance:

- the games must be pontoon and *chemin de fer* only
- no participation fee may be charged otherwise than in accordance with the regulations
- no amount may be deducted from sums staked or won otherwise than in accordance with the regulations.

29.28 A 48 hour rule applies in respect of all three types of gaming, so that the games may only be played by people who have been members of the club for at least 48 hours, or have applied or been nominated for membership or are genuine guests of a member.

29.29 More information about club gaming permits can be found in Part 25.

29.30 Private clubs with a club gaming permit cannot run the premises wholly or mainly for the purposes of gaming, nor can the club make a profit as all funds must be applied for the benefit of members. Experience indicates that illegal clubs will go to considerable lengths to disguise the true nature of their activities. Consequently building the evidence required to review and rescind the permit can be time consuming and resource intensive. It is therefore essential that licensing authorities scrutinise applications for club gaming permits carefully. The applicant should be asked for as much information as required (such as a business plan) in order to satisfy the licensing authority that it is a bone fide club whose main activity will not be gambling. The Commission are in a position to assist in sharing intelligence on individuals or organisations in circumstances where a licensing authority has doubts as to the credentials of an applicant.

29.31 There is now a considerable body of knowledge and experience as to how a gaming permit can be withdrawn. This may include using other legislation such as the Proceeds of Crime Act which was used by a licensing authority to prosecute and imprison one club owner.

29.32 On occasion licensing authorities may consider that, as they have not received complaints about a club, there is no requirement for them to act. In these circumstances it is worth bearing in mind that they are very unlikely to receive complaints about such clubs, unless it is issues such as local noise and nuisance. The people attending the club do so from choice. Secondly, the club is effectively operating as an illegal casino and none of the protections afforded in a casino are in place, such as personal licence holders and anti-money laundering safeguards.

Poker as non-commercial gaming

29.33 The Act permits non-commercial gaming if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

So it would be possible to raise funds for an individual providing the proceeds were, for example, for a wheelchair or to support a sporting endeavour. Additionally, events such as casino nights or poker nights may be permitted if they comply with the regulations and are run on a non-commercial basis.

29.34 S.297(3) of the Act defines proceeds as:

a) the sums raised by the organisers, whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders, or otherwise, minus
b) amounts deducted by the organisers in respect of costs reasonably incurred in organising the event.

However, sums raised by other persons will not form part of the proceeds of the event and may be appropriated for private gain. An example would be refreshments provided at the event by an independent third party.

29.35 If someone uses any profits from non-commercial gaming for something other than the specified purpose, then they commit an offence under s.301 of the Act. The maximum penalty, upon conviction for such an offence, is a term of imprisonment not exceeding 51 weeks for England and Wales (6 months in Scotland), and/or a level five fine.

29.36 The Act identifies two types of permissible non-commercial gaming:

- prize gaming (which must comply with the conditions set out in s.299 of the Act)
- equal chance gaming (which must comply with the conditions set out in s.300 of the Act and the conditions prescribed in regulations).

Non-commercial prize gaming

29.37 Provided that the conditions set out in s.299 are met, poker can be offered as non-commercial prize gaming without the need to have an operating or premises licence, nor a prize gaming permit. Paragraphs 28.7 onwards set out detail on s.299 of the Act.

29.38 Poker as prize gaming occurs 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 will be determined by the organiser before play commences.

Non-commercial equal chance gaming

29.39 Provided that the conditions set out under s.300 are met, poker can be offered as non-commercial equal chance gaming without the need to have an operating or premises licence. Paragraphs 28.9 onwards set out detail on s.300 of the Act.

Non-commercial ‘casino night’ or ‘poker night’

29.40 A non-commercial casino night or poker night is an event where participants stake money on casino-style games, such as poker, at a non-commercial event, where none of the money the organisers raise from the event is used for private gain.

29.41 Apart from reasonable costs, proceeds (including any entrance fees, sponsorship, the difference between stakes placed and payout made):

- must not be used for private gain
- must all be given to a good cause.

Reasonable costs would include costs incurred by providing the prizes. If third parties are selling goods or services at the event, for example if someone is selling refreshments, this does not count as money raised for the charity or good cause and can be retained by that third party.

29.42 A non-commercial casino night or poker night can be run without a licence, or any other form of permission, providing the operation of the gaming falls into one of the three categories discussed below.

29.43 Organisers should note that, under the Act, it is illegal to organise a *commercial* casino night or poker night outside of a licensed casino. As the law stands, only the holder of a valid non-remote casino operating licence can apply to a licensing authority for a temporary use notice (TUN) in respect of other premises to offer gaming on a commercial basis, and then only in respect of equal chance gaming organised on a tournament basis with a single overall winner[95].

Casino night or poker night as non-commercial prize gaming

29.44 Casino nights or poker nights can be held as non-commercial prize gaming. The players must be told what good cause will benefit from the profits of the gaming before placing a bet. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised. For example, the individual winner or winners could be determined by counting who has the most casino chips after the game or tournament ends. The winners are then awarded the prizes that have been advertised in advance.

Casino night or poker night as non-commercial equal chance gaming

29.45 Casino nights or poker nights can also be run as non-commercial equal chance gaming. In non-commercial equal chance gaming, the charitable funds are usually raised through an entrance fee, participation fee, or through other payments related to the gaming. The maximum amount that a player may be charged is £8 per day (this includes entrance or participation fees, stakes and any other payments in relation to the gaming). Organisers must ensure that the total amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is allowed.

Poker as private gaming

29.46 Poker offered as private gaming can take place anywhere to which the public do not have access and this would include a workplace. Domestic and residential gaming are two subsets where non-equal chance gaming is allowed:

- Domestic gaming is permitted without the need for permissions if:
  - it takes place in a private dwelling
  - it is on a domestic occasion
  - no charge or levy is made for playing.

- Residential gaming is permitted when:
  - it takes place in a hall of residence or hostel not administered in the course of a trade or business
  - more than 50% of the participants are residents.

[95]SI No 3157/2007: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

29.47 Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers should be advised to seek their own legal advice before proceeding with the event.

29.48 It is a condition of private gaming that no charge (by whatever name called) is made for participation and Schedule 15 to the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is expressed to be voluntary or compulsory, particularly if customers are prevented from playing if they do not make the 'voluntary' donation, or there is strong peer pressure to make the donation. A relevant decided case in another licensing field is that of *Cocks v Mayner* (1893) 58 JP 104, in which it was found that an omnibus said to be available free of charge but whose passengers who were invited to (and in some cases did) make a voluntary contribution was 'plying for hire' without the appropriate licence.

29.49 Additionally, the decided cases of *Panama (Piccadilly) Ltd v Newberry* (1962) 1WLR 610 and *Lunn v Colston-Hayter (*1991) 155 JP 384 are helpful in guiding local authorities in deciding whether a person ceases to be a member of the public merely because they have agreed to become a member of a club.

29.50 In the first of these cases (which related to a strip show), the court said that an applicant for membership of the club and admission to the show was and remained a member of the public, as the whole purpose (of membership) was to get members of the public to see the show and there was no sufficient segregation or selection to cause an applicant to cease to be a member of the public and to acquire a different status as a member of a club on signing his application form and paying the charge. In the second (which related to an acid house party), the judge said that it was impossible, merely because of the existence of a formal scheme of club membership enforced to the extent of requiring tickets to be obtained 24 hours in advance of the event, to regard those who obtained such membership and tickets as having ceased to be members of the public.

29.51 This means that people joining a club to attend and take part in a 'private' event are likely to remain members of the public, particularly if 'club membership' is acquired only a short time before, and in order to attend the event.

Advertising

29.52 The Gambling (Licensing and Advertising) Act 2014 amended the Act so that from 1 November 2014, gambling operators that provide facilities for remote gambling or advertise to consumers in Great Britain require a licence issued by the Commission.

29.53 As an example, many poker websites promote other online gambling websites, usually by the provision of a hyperlink to that website. A hyperlink has been deemed to constitute advertising as it brings facilities for gambling to the attention of the person who clicks on the link.

29.54 It is not an offence to advertise non-remote gambling that takes place overseas. For example, a prize could now include entry into a poker tournament, subject to meeting the appropriate prize limits.

Part 30 Travelling fairs

30.1 The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. The Act does not change the principles on which travelling fairs have been regulated under previous legislation.

30.2 Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of this Guidance.

30.3 Higher stake category B and C fruit machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

30.4 Part 27 of the Guidance discusses the prize gaming that may be provided at travelling fairs.

30.5 Licensing authorities should note that the 27 day maximum is during a calendar year and not in any 12-month period, and applies to the piece of land on which fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. Authorities should therefore monitor the use of land and maintain a record of the dates on which it is used. If the land straddles licensing authority areas, the authorities concerned will need to work together to maintain a central log.

30.6 Local authorities in England and Wales may adopt by laws to control travelling fairs under a discretionary power set out in s.75 of the Public Health Act 1961, as amended. In Scotland travelling fairs are licensed by the Civic Government (Scotland) Act 1982.

Part 31: Crown immunity and excluded premises

31.1 With the exception mentioned below, the Act applies to the Crown. This includes government departments and therefore there is no immunity for establishments such as civil service social clubs, which must apply for club machine permits or other permissions in the normal way.

31.2 However the Act has no effect in relation to anything done on premises occupied, either on a permanent or temporary basis, by the armed forces namely Her Majesty's naval, military or air forces.

31.3 The Act enables the Secretary of State to classify a premises as exempt from the Act on the grounds of national security.

Part 32: Territorial application of the Gambling Act 2005

32.1 The Act only applies to Great Britain (England, Wales and Scotland) except for two main areas which also apply in Northern Ireland. These are:

- Chain gift schemes dealt with in Part 35 of this Guidance
- Offences relating to foreign gambling (s.331 of the Act).

Vessels

32.2 Vessels such as cruise ships, ferries, boats and hovercrafts are required to have a premises licence if commercial gambling is provided at them. However if a vessel is engaged on a journey into or from international waters then no premises licence is required. Further information is available at Part 7 paragraphs 7.12 to 7.17.

Vehicles

32.3 No premises licences can be issued in respect of a vehicle. In addition to a car, lorry or coach, the Act also provides that 'vehicle' includes a train, aircraft, seaplane and any amphibious vehicle other than a hovercraft. There is no exemption for international travel. Whilst this is ultimately a matter for the courts it is the Commission's view that a vehicle remains a vehicle not only when stationary but also if located permanently at a particular site, perhaps with its wheels removed but capable of being re-instated.

Aircraft

32.4 No offence occurs if gambling is conducted on an aircraft which is in international space. As an aircraft is a vehicle, no premises licences can be granted to aircraft for gambling in domestic airspace.

Airports

32.5 The Act applies to all parts of an airport including both domestic and international departure halls. Therefore any business that would normally require a premises licence will also require a licence to operate at an airport. Further details are provided in Parts 22 and 24 about the requirements for family entertainment centres at airports

32.6 Due to differences in jurisdictional application, there is an anomaly in respect of granting gaming machine permits to pubs and bars where alcohol is sold airside in airports.

32.7 In England and Wales, the Licensing Act 2003 applies to pubs and bars in the domestic part of the airport and therefore these businesses are able to qualify for the automatic gaming machine entitlement or can apply for a gaming machine permit for more than two gaming machines. Part 26 of this Guidance provides more detail. The Licensing Act 2003 does not apply airside, so pubs and clubs are not required to obtain a licence to serve alcohol.

32.8 In Scotland, designated airports which currently hold alcohol licences under the Licensing (Scotland) Act 2005, qualify for the automatic gaming machine entitlement and can apply for gaming machine permits. However, the Licensing (Scotland) Act 2005 does not apply to airside pubs.

Part 33: Door supervision

33.1 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. The licensing authority is able to impose a condition on the premises licence to this effect.

33.2 S.178 of the Act sets out a definition of 'door supervisor' and provides that where a person employed in such a role is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.

33.3 The SIA regulates the private security industry in England, Wales and Scotland, and is responsible for licensing individuals working within the various industry sectors, by virtue of the Private Security Industry Act 2001 (PSIA). The majority of persons employed to work as door supervisors at premises licensed for gambling, and carrying out the functions listed under Schedule 2 Part 1 of the PSIA, will need to be licensed by the SIA. There are, however, exceptions to this requirement.

33.4 The PSIA requires that all contract staff (those employed under a contract **for** services) carrying out the functions set out under Schedule 2 Part 1 of the PSIA must be licensed by the SIA. However, certain premises also need to have their in-house employees (those employed under a contract **of** service) who carry out these functions, licensed. These premises include those holding a premises licence for the supply of alcohol or regulated entertainment under the Licensing Act 2003.

33.5 This requirement is relaxed when applied to door supervisors at casino and bingo premises. Where contract staff are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by the SIA. However, in-house employees working as door supervisors at casino and bingo premises are exempt from these requirements.

33.6 In Scotland, the PSIA currently applies in respect of the Licensing (Scotland) Act 2005 by virtue of the Licensing (Scotland) Act 2005 (Consequential provisions) Order 2009, Scottish SSI 2009/248. This ensures that the same requirements in relation to the licensing of staff by the SIA in England and Wales also apply in Scotland.

33.7 Licensing authorities are encouraged to set out the circumstances in which such matters as door supervision may be required in their statement of policy.

Part 34: Small society lotteries

34.1 The Act denotes 'local authorities' as being responsible for registering societies to run Small Society Lotteries, as opposed to licensing authorities. S.2 of the Act defines licensing authorities and s.25 defines local authorities, with both given the same definition. The Commission considers therefore that for the purposes of the Act both terms are broadly the same, and in the interests of consistency with the other areas of this Guidance, we refer throughout this part to licensing authorities, as opposed to local authorities, except when referring to lottery licences that local authorities can apply for themselves.

The status of lotteries under the Act

34.2 The Gambling Commission and the National Lottery Commission merged on 1 October 2013. No change has been made to the legislation which governs how commercial gambling and the National Lottery are regulated. The Commission licenses and regulates all commercial gambling and the National Lottery in Great Britain.

34.3 The Act sets out a definition of a lottery, detailed below, and 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.

Definition of lottery

34.4 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.

34.5 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.

34.6 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.

Definition of society

34.7 Licensing authorities should define 'society' as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and need to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation. S.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.

34.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.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.

Local authority lotteries

34.9 Local authorities are entitled to operate their own lotteries, but may only do so if licensed by the Commission. Local authorities must commit a minimum of 20% of the proceeds from such lotteries for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wish to sell lottery tickets via electronic or other remote technological methods such as over the telephone, email or via the internet.

Licensing authority guidance

34.10 Licensing authorities consider producing their own guidance for organisations and individuals seeking to operate small society lotteries. If so, the Commission's advice note Promoting society and local authority lotteries advice note[96] may provide a useful starting point.

Social responsibility

34.11 Participation in a lottery is a form of gambling, and as such licensing authorities must be aware that the societies they register are required to conduct their lotteries in a socially responsible manner and in accordance with the Act.

34.12 The minimum age for participation in a lottery is 16 and Social Responsibility (SR) code 3.2.9 in the *Licence Conditions and Codes of Practice* (LCCP) requires lottery licences 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.

34.13 The licensee must take reasonable steps to ensure that all those engaged in the promotion of lotteries understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

34.14 As with other aspects of local gambling regulation, licensing authorities are encouraged to use their statement of policy as a means of making clear their expectations of lottery operators and particular risks that may exist.

External lottery managers' licence status

34.15 External lottery managers (ELMs) are required to hold a lottery operator's licence issued by the Commission to promote a lottery on behalf of a licensed society.

34.16 However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:

- who decides how the lottery scheme will operate
- who appoints and manages any sub-contractors

[96] This advice note does not form part of the Guidance to Licensing Authorities

- the banking arrangements for handling the proceeds of the lottery
- who sells the tickets and pays the prizes
- who controls promotional aspects of the lottery.

34.17 Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences held on its website.

34.18 Licensing authorities can refer those seeking further information on ELMs to the Commission's website or its publication Promoting society and local authority lotteries advice note.[97]

Lottery tickets

34.19 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 ELM
- the date of the draw, or information which enables the date to be determined.

The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

34.20 The Commission recommends that licensing authorities require 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. The licensing authority is permitted to inspect the records of the lottery for any purpose related to the lottery.

34.21 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.

34.22 With regards to where small society lottery tickets may be sold, the Commission recommends that licensing authorities should apply the following criteria to all small society lottery operators:

- 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.

This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

[97] The advice note does not form part of the Guidance to Licensing Authorities

Prizes

34.23 Prizes awarded in small society lotteries can be either cash or non-monetary. Licensing authorities need to be aware that the value of prizes declared on returns must not exceed the limits on prizes set out by the Act – in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.

34.24 The Commission recommends that licensing authorities should advise small society lottery operators to check with local police if they wish to award items containing alcohol as prizes. This is in order to ensure that licensing law is not breached.

Specific offences in relation to lotteries

34.25 The Act sets out a number of offences that apply to lotteries, as follows:

Section of the Act	Offence
s. 258	Promoting a non-exempt lottery without a licence
s. 259	Facilitating a non-exempt lottery without a licence
s. 260	Misusing the profits of a lottery
s. 261	Misusing the profits of an exempt lottery
s. 262	Purporting to operate a small society lottery when not registered, or failing to make the required, or making false or misleading, returns in respect of such lotteries
s. 326	Without reasonable excuse, obstructing or failing to co-operate with an authorised person exercising his/her powers
s. 342	Without reasonable excuse, giving false or misleading information to the Commission or a licensing authority

34.26 If a society running small lotteries fails to comply with any of the conditions of running such lotteries specified in Part 4 of Schedule 11 of the Act, it will be operating in an illegal manner, irrespective of whether it is registered with a licensing authority or not. In these circumstances, small society lottery operators may face prosecution by the Commission, a licensing authority, or the police. The lead organisation for initiating prosecutions will vary depending upon the specific circumstances of the case, but it is expected that licensing authorities will investigate offences in respect of small society lotteries. If necessary, licensing authorities can ask for advice from their Gambling Commission compliance manager, but the Commission is unlikely to investigate a case unless it has national or regional significance.

34.27 Licensing authorities in Scotland should refer cases where there has been a breach of the Act to the police for investigation, in line with Crown Office and Procurator Fiscal Service[98] guidance on reporting practices for non-police agencies.

[98] Refer to website: www.crownoffice.gov.uk

Application and registration process for small society lotteries

34.28 When licensing authorities are approached by societies who want to register with them to operate lotteries, they will need to refer to the Act's definition of a small society lottery, which falls into two distinct areas:

- society status – the society in question must be 'non-commercial'
- lottery size – the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.

34.29 The Commission has published a series of advisory documents which licensing authorities may wish to refer applicants or potential applicants to, to enable them to establish which type of lottery they plan to operate. Promoting society and local authority lotteries advice note provides information for those seeking to run small and large society lotteries and local authority lotteries. Organising small lotteries provides advice on exempt lotteries that do not require a licence or registration. The Commission has also published a quick guide for fundraisers, to help them identify what types of lottery they can run[99].

34.30 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. Parts 4 and 5 of Schedule 11 of the Act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.

34.31 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 a licensing authority believes that a society's principal office is situated in another area, it should inform the society and the other licensing authority as soon as possible.

34.32 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. Licensing authorities are encouraged to ask applicants for a copy of their terms and conditions and their constitution to establish that they are a non-commercial society. They may also choose to require applicants to provide a declaration, stating that they represent a *bona fide* non-commercial society.

34.33 The Commission has been made aware that some small society lotteries may be avoiding applying for a society lottery operating licence from the Commission by obtaining two or more registrations with the same or different licensing authorities. As set out previously, the Act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.

34.34 In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11 of the Act.

34.35 Licensing authorities are advised to carefully consider any application by a society for more than one registration. If the aims and objectives are the same and therefore the threshold limits for small society lotteries are likely to be exceeded, the applicant should be advised to apply to the Commission for a society lottery operating licence.

[99] The advice note/ leaflet /quick guide do not form part of the Guidance to Licensing Authorities

34.36 By virtue of Schedule 11 paragraph 31(5), societies may not hold an operating licence and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of 3 years during which a large society cannot convert to small society status. Licensing authorities should check that applicants for registration do not hold (and have not held in the preceding 3 years) a society lottery operating licence granted by the Commission.

34.37 Licensing authorities may also wish to check with the society at the time the annual fee is paid to renew the registration, to ensure that a society does not hold a duplicate registration with them or another licensing authority where the aims and objectives of the societies are the same. If that is the case and the combined proceeds exceed or are likely to exceed the threshold limits for small society lotteries, the society should be advised to apply to the Commission for a society lottery operating licence. The licensing authority should also notify the Commission.

34.38 Licensing authorities may delegate the registration of small societies to licensing officers, subject to each authority's own specific process of delegations.

34.39 Licensing authorities are required by paragraph 44 of Schedule 11 of the Act to record details of the society on a register. While it does not have to be a public register, the Commission recommends that licensing authorities make the register available to the public on request.

34.40 Once the application for registration has been accepted and entered on the local register, the licensing authority must then notify both the applicant and the Commission of this registration as soon as practicable. The Commission would prefer to receive this information electronically via email to info@gamblingcommission.gov.uk, although licensing authorities may also forward this information by post.

34.41 Registrations run for an unlimited period, unless the registration is cancelled. If a licensing authority cancels the registration of a society they are required by paragraph 53 of Schedule 11 of the Act to notify the Commission.

Refusal of an application

34.42 Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for licensing authorities to refuse a small society lottery registration application. In summary, licensing authorities may propose to refuse an application for any of the following reasons:

- **An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years.**
  The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing authorities should consult the Commission as part of their consideration process.
- **The society in question cannot be deemed non-commercial.**
  Under previous regimes, licensing authorities often required applicants to provide a statement with their application form declaring that they represented a *bona fide* non-commercial society, and identifying how the purpose of the society could be established. The Commission considers that a similar approach remains appropriate. However, licensing authorities should also consider whether such a declaration is sufficient in the particular circumstances of each case or whether there are additional determining factors, such as an unusual or novel purpose of the society, which may suggest that further enquiry is needed.

- **A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act**. Under previous regimes, licensing authorities often required applicants to provide a statement alongside their application form declaring that they had no relevant convictions that would prevent them from running lotteries. The authority could then verify the accuracy of the statement with the police. The Commission considers that this approach remains appropriate.
- **Information provided in or with the application for registration is found to be false or misleading.**

34.43 A licensing authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. Licensing authorities should inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

34.44 Representations, and any objections that may result after such a decision, should be handled in accordance with local procedures, and in the same way that the licensing authority would deal with any other licensing matters. The Commission considers that, as a matter of good practice, licensing authorities should set out the principles they will apply in such circumstances. This could be in their statement of policy or on their website.

Revocation of a small society's registered status

34.45 A 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. Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing or via correspondence. In preparation for this, licensing authorities should 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. Representations that may result after such a decision should be handled in accordance with local procedures.

Appeals

34.46 Following the conclusion of any hearings and receipt of representations, paragraph 51 of Schedule 11 of the Act then requires the authority to notify the applicant or the society as soon as possible if their registration is still to be revoked, or if their application for registration has still been rejected.

34.47 The applicant or society may decide to make an appeal against the decision, and has 21 days following receipt of the notice of the decision to lodge an appeal, which must be made directly to the local Magistrates' court if in England or Wales, or the Sheriff court in Scotland. On appeal they may choose to affirm the decision of the licensing authority, reverse the decision, or make any other order.

Administration and returns

34.48 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.

34.49 The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (Schedule 11, paragraph 33)
- no single prize may be worth more than £25,000 (Schedule 11, paragraph 34)
- 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 (Schedule 11, paragraph 35)
- 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 (Schedule 11, paragraph 37).

34.50 Paragraph 39 of Schedule 11 in 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 licensing authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

34.51 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.

34.52 Paragraph 39 of Schedule 11 in 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.

34.53 The Commission may inspect a society's returns, although it will not routinely do so. As such, licensing authorities are required to retain returns for a minimum period of three years from the date of the lottery draw. They should also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw. Licensing authorities should ensure that information is made available to the public regarding the location of statements, when they can be viewed and the cost of obtaining copies.

34.54 Licensing authorities should allow for returns to be sent to them both electronically and manually. The Commission recommends that each licensing authority should make details concerning the form of returns required available through appropriate media, such as licensing authority websites and leaflets.

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

Licensing authorities must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications should be copied to the society in question. The Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the licensing authority of the outcome of its exchanges with the society.

34.56 Licensing authorities will also need to be aware of the status of external lottery managers, when monitoring returns. They are an individual, a firm or a company appointed by a society to manage a lottery or lotteries on behalf of the society, and are generally consultants that take their fees from the expenses of the lottery. A maximum of 80% of a lottery's proceeds may be attributed to expenses and prizes, and managers' fees must be included within this total.

Part 35: Chain gift schemes

35.1 S.43 of the Act makes it an offence to invite others to join a chain gift scheme or to participate knowingly in the promotion or administration of a scheme. These schemes have many of the features of pyramid selling schemes, but escape the ban on them because they do not involve the sale of any product. A person found guilty of the offence could be liable to a fine or imprisonment.

35.2 The Commission is aware that local authority trading standards officers have considerable relevant experience in dealing with chain gift schemes and are well placed to deal with schemes that arise from time to time. The Commission will keep its role in tackling chain gift schemes, where there is a gambling issue related to the scheme, under review so that if more concerted action is required centrally it can liaise with other bodies to determine what action may be taken.

35.3 The chain gifting offence is part of a suite of consumer protections set out in the Consumer Protection from Unfair Trading Regulations 2008. The main element of consumer protection against these schemes is publicity to prevent people becoming involved in them. Local authorities may wish to use their websites and other publicity tools to educate consumers against participation in such schemes.

35.4 If licensing authorities are contacted by members of the public regarding schemes of this nature they should, in the first instance, refer to their trading standards department as they are likely to have relevant experience of dealing with chain gift schemes, lottery-style scams and similar arrangements.

Street collectors selling game cards

35.5 Licensing authorities may also be aware of street sellers in their areas approaching the public to sell them gamecards, often saying that the cards are being sold to raise money for good causes. If such cards require an element of skill on the part of the player, such as completing a tiebreak question, they may be genuinely distinguishable from a lottery.

35.6 It will be unlikely that the product being sold is a legal lottery. This is because societies running large lotteries are not permitted to sell lottery tickets in the street by virtue of a condition on their operating licence, and the Commission recommends in this Guidance that those running small lotteries are recommended have a similar restriction imposed upon them by the local authority that registers them.

35.7 The Commission has no comment on products that are not classed as gambling under the Act, but would advise authorities with concerns over street sales of such products to contact the trading standards department. They will be able to advise on whether the product being sold amounts to a gambling product and agree on the best course of action, which may include relying on relevant legislation such as street trading regulations.

Part 36: Compliance and enforcement matters

Fees

36.1 Licensing authorities' compliance and enforcement work and the costs of dealing with illegal gambling is covered by fees from premises licences and permits.

36.2 Licensing authorities in England and Wales will be aware that section 212(2)(d) of the Act specifically states that local authorities 'shall aim to ensure that the income from fees… as nearly as possible equates to the costs of providing the service to which the fees relates'.

36.3 Furthermore DCMS *Guidance to licensing authorities on setting premises licence fees* states 'The annual fee will cover the reasonable costs of compliance and enforcement work, including the cost of dealing with illegal gambling in a licensing authority's area'.

36.4 Fee setting must be transparent and licensing authorities should closely track their costs and be able to evidence how they arrived at the fee levels in order to demonstrate that they have been calculated on a cost recovery basis only. Fees should be reviewed annually.

36.5 In Scotland all fees for gambling licences and permits are set centrally by Scottish Ministers at a flat rate but again are designed to cover the costs of compliance and enforcement work.

Enforcement officers and authorised persons

36.6 S.303 of the Act enables the Commission to designate employees of the Commission and to appoint persons other than employees, as enforcement officers for the purpose of the Act.

36.7 An officer of a licensing authority can be an authorised local authority person (authorised person) under s.304 of the Act, if the conditions in s.304(2) of the Act are met, namely if:

- the premises are wholly or partly situated in the authority's area
- the officer is designated by the authority as an authorised person for the purposes of s.304.

36.8 Designation of someone as an authorised person for the purposes of s.304(2) is likely to be carried out by the local authority's licensing committee.

36.9 In England and Wales, s.101(1) of the Local Government Act 1972 provides that 'a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or officer of the authority.' Delegations are set out in tables at Appendix G.

36.10 In Scotland, a Council's internal functions are laid down in the Local Government (Scotland) Act 1973 as amended, principally by the Local Government (Scotland) Act 1994 and the Local Government in Scotland Act 2003. S.56 of the Local Government (Scotland) Act 1973 provides that 'a local authority may arrange for the discharge of any of their functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland'.

36.11 Authorised persons of the licensing authority exercise their inspection powers in accordance with the principles set out in the licensing authority's statement of policy.

36.12 S.304(3) and (4) set out the circumstances in which officers of local authorities that are not licensing authorities, and certain other persons, can be authorised persons for the purposes of Part 15 of the Act. One example is Trading Standards officers who can be authorised by licensing authorities under s.304(3)(b) of the Act for the purposes of conducting test purchasing exercises.

Powers of entry – England and Wales

36.13 The Act states that authorised persons, constables and enforcement officers may:

- undertake activities for the purpose of assessing compliance with provisions made under the Act or to assess whether an offence is being committed under the Act, by virtue of s.305. This is a general power and so it is unlikely that an authorised person can gain entry under s.305 alone. It should be read in conjunction with the sections of the Act that follow it and set out specific powers
- enter premises if they reasonably suspect that facilities for gambling are being, are about to be, or have been provided on the premises. This would include a private club but does not apply if the suspected gambling is private or non-commercial gaming or betting (s.307). If in doubt, a licensing authority should seek legal advice about also securing a warrant issued by a justice of the peace
- enter a premises in respect of which an application has been made for a family entertainment centre (FEC) gaming permit, for a purpose connected with the consideration of the application, or to enter a premises in respect of which a FEC gaming machine permit has effect, in order to determine compliance with gaming machine permit requirements (s.309)
- enter premises in respect of which an on-premises alcohol licence has effect for the purpose of determining if any gaming that is taking place satisfies the conditions for exempt gaming in s.279 of the Act, to ascertain that any bingo taking place meets the requirements of the Act, or to ascertain the number and category of gaming machines being made available for use on the premises (s.310)
- enter premises in respect of which an application has been made for a prize gaming permit, for a purpose connected with the consideration of the application, or to enter a premises in respect of which a prize gaming permit has effect in order to determine whether prize gaming on the premises complies with the requirements of the Act and regulations under it (s.311).

36.14 Where an application for a club gaming permit or club machine permit has been made, authorised persons, constables and enforcement officers may also enter a members' club, a commercial club or miners' welfare institute under s.312 of the Act, for a purpose connected with consideration of the application, to:

- determine whether gaming is taking place on the premises or is about to take place on the premises
- or to determine whether any gaming that is taking place or is about to take place on the premises meets the requirements for exempt gaming in section 269 of the Act, a club gaming permit or a club machine permit.

It should be noted that only police officers and enforcement officers can enter the premises that have been granted a permit to determine if the things being done are in accordance with that permit (and not primarily because they suspect a crime is taking place/has taken place). Therefore, if an authorised person was to accompany a police officer or enforcement officer (under s.324, see below), they would not then be able to exercise any powers whilst on the premises such as the seizure of evidence.

36.15 Under s.318 of the Act a constable, enforcement officer or authorised person can only enter a dwelling under a warrant issued by a justice of the peace.

36.16 S.324 of the Act allows a constable, enforcement officer, or authorised person who is exercising a power under Part 15 of the Act**,** to take one or more persons with him. It should be noted that the Act would not permit an authorised person to exercise any powers on premises such as the seizure of evidence, unless they had entered under a power of entry under the Act that is applicable to their status as an authorised person. This section of the Act seeks to provide access to premises for those assisting a constable, enforcement officer or authorised person in carrying out duties, such as photographers, forensic examiners and note takers.

36.17 Further detail about powers of entry and inspection are set out in Appendix F.

Powers of entry in Scotland

36.18 In Scotland, the relevant licensing authority is called a licensing board. The powers of licensing boards are similar to those of licensing authorities in England and Wales in that they grant, review and cancel club gaming permits and club machine permits.

36.19 However, s.310 and s.312 of the Act have created an anomaly in Scotland. In Scotland the equivalent of a licensing officer is a licensing standards officer (LSO). Although s.304(2) of the Act was intended to provide licensing authorities with the opportunity to empower licensing authority staff already involved in licensing, it does not apply to Scotland because those given responsibility by Scottish licensing authorities (usually the LSOs) are not officers of the licensing authority. The licensing boards are separate and LSOs are deliberately legally separated from the boards.

36.20 S.304(3) and (4) of the Act were intended to provide licensing authorities with the opportunity to empower staff involved in other regulatory roles, such as trading standards officers and environmental health officers, but because most Scottish licensing authorities have given responsibility to LSOs instead, they are unable to do this.

36.21 The Commission encourages local authorities to deploy suitably trained authorised persons under the Act to ensure that gambling is regulated effectively and that the public are afforded the protections set out in the three licensing objectives. The advice note The role of authorised persons in Scotland advice note[100] sets out the Commission's understanding of the powers of authorised persons in Scotland. The note also offers guidance to licensing authorities and others about how they might contribute to effective co-regulation of the gambling industry in Scotland.

36.22 It should also be noted that police officers have the power to enter and inspect premises that are licensed under the Licensing (Scotland) Act 2005 at any time.

Illegal gambling

36.23 The Commission views the prevention of illegal gambling as an enforcement priority. Combating illegal gambling is of significant benefit to the licensed community as the provision of illegal unregulated gambling impacts upon the reputation of the industry as a whole. The persistent and widespread existence of illegal gambling also reduces the incentive on operators to be correctly licensed. Those engaged in illegal gambling should expect to be subject to the criminal investigation and prosecution process.

36.24 The Commission will generally take the lead in prosecuting the offence of providing facilities for gambling where it is committed in the context of illegal gambling which appears organised and has a potentially national or regional impact, or where there are deliberate, reckless or significant breaches by a licensed operator.

36.25 The expectation is that licensing authorities will take prosecutions against those providing or facilitating illegal gambling – in effect gambling without a licence or permit – where the criminality is contained in one premises.

[100] This advice note does not form part of the Guidance to Licensing Authorities

36.26 Dealing with illegal poker or illegal / illegally sited machines in a specific premises often lends itself to a multi-agency coordinated approach with licensing authority officers leading the operation and the Commission, the police and sometimes HMRC providing support, advice and expertise. Licensing officers should contact their compliance manager in the first instance to agree if such a multi-agency approach would be appropriate.

36.27 As stated in paragraph 36.1**,** the annual premises licence fee is set to cover the costs of compliance and enforcement work undertaken by licensing authorities, including the cost of dealing with illegal gambling in a licensing authority's area.

Test purchasing and age verification

36.28 Test purchasing is one method by which the Commission or licensing authorities may, in England and Wales, measure the compliance of licensed operators or groups of licensed operators, with aspects of the Act subject to Primary Authority (PA) arrangements, detailed in paragraph 36.36 below. Test purchasing in Scotland is the subject of an Enforcement Protocol with offences prosecuted by the Crown Office and Procurator Fiscal Service.

36.29 Licensing authorities are familiar with the methodology in relation to the sale of age restricted products and are aware of the importance of following current guidance in this area, in order to ensure that tests are carried out in a manner that is risk-based and fair, with due regard to the welfare of young people involved in the test purchasing.

36.30 As noted above, in the first instance it is up to operators to ensure they are compliant with the Act and the associated regulations. The Commission's approach in relation to test purchasing in general and age verification in particular is set out in our advice note on test purchasing in England and Wales [101]. This approach is in line with the responsibilities set out for regulators and enforcers in the *Code of Practice: age restricted products and services* published by the Better Regulation Delivery Office[102], which applies to England and Wales.

36.31 The Commission encourages operators to manage the business risk associated with both underage access to premises and permitting a young person to gamble. Where an operator is required to commission a third party to test the effectiveness of their policies and procedures or put its own testing in place as required by *Licence Conditions and Codes of Practice* (LCCP) and where the results of the tests are shared with us, we are less inclined to conduct our own test purchasing.

36.32 Local authorities, whether acting as a licensing authority or through another function such as trading standards, should consult with operators in the first instance where they have concerns about the underage access and age verification policies or whose premises they plan to test purchase. This will enable them to identify what programmes are in place to manage the business risk and take these into account in planning a test purchase exercise. To do otherwise would not be compliant with the Hampton principles. This approach is analogous to what is sometimes called 'earned recognition'.

36.33 Local authorities should also consult with the Commission before planning such exercises in order to ensure that there is no conflict between any ongoing investigation or enforcement activity related to either the premises or the operator that we have initiated and the test purchase operation. Local authorities in England and Wales are also subject to PA arrangements.

[101] This advice note does not form part of the Guidance to Licensing Authorities
[102] Age Restricted Products and Services: A Code of Practice for Regulatory Delivery

36.34 Local authorities undertaking their own test purchase operations are requested to share any test purchasing results with the Commission.

36.35 However, local authorities will have in place democratically determined priorities and resource allocations as well as the ability to respond to complaints and intelligence related to specific premises. As a result, irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

Primary Authority

36.36 The PA scheme, administered by the Better Regulation Delivery Office (BRDO) provides for a statutory partnership to be formed between a business and a single authority, eg a local authority. That single authority, the PA, can provide a national inspection strategy within which other local regulators can operate[103], to improve the effectiveness of visits by local regulators and enable better sharing of information between them. The PA scheme therefore aims to ensure that local regulation is consistent at the national level.

36.37 Since October 2013, the PA has been extended to include age-restricted sales of gambling in England and Wales (it currently does not apply in Scotland). It does not apply to any other aspect of the Act. This means local authorities in England and Wales must follow any age restricted sales of gambling national inspection plans and strategies that are published on the PA register when considering proactive age restricted sales (gambling) activity including testing. PA plans do not prohibit licensing authorities undertaking reactive test purchasing. PA does not apply to the police or the Commission.

36.38 The Commission fully supports the development of PA schemes between gambling operators and local authorities, and has already worked closely with PAs in the development of their national inspection strategies for the major bookmakers with whom they have entered into partnerships. The inspection plans are designed to be largely uniform and to bring consistency to proactive test purchasing in those betting shops.

36.39 The PA scheme does not, of course, transfer responsibility for the regulation of age restricted sales of gambling to PAs. The PA inspection plans have the potential to help gambling businesses achieve high standards while also providing for more efficient and consistent regulation. These arrangements underpin the primary objectives of the Act in relation to protecting children from gambling-related harm and preventing them from accessing gambling facilities. The regulatory frameworks for gambling and for PA are therefore complementary.

Prosecutions

36.40 The Act gives licensing authorities in England and Wales, the police and the Commission the power to prosecute the offence of using premises for gambling without the requisite permissions. In exceptional circumstances, such as repeated deliberate breaches of premises licence conditions, licensed operators or permit holders may be prosecuted without any prior regulatory action, such as warnings, suspension or revocation of licence or removal of permit. Most prosecutions will be against those illegally providing gambling without a licence or permit.

36.41 In Scotland, licensing authorities are not able to institute criminal proceedings themselves, but are to refer cases where there has been a breach of the Act to the Procurator Fiscal.

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[103] Primary Authority statutory guidance

36.42 Normally the Commission or the licensing authority would decide when to involve the police, rather than the police initiating any action. The Commission considers that examples of scenarios where the police should be involved include:

- when non-gambling offences are discovered, for example large-scale theft or other serious crime which extends beyond the reach of licence conditions
- assistance with Commission investigations, for example enquiries into other criminal activity.

36.43 There is a distinction between those who conduct gambling operations under a licence or permit but breach the conditions of that, and those who seek to profit from providing facilities for gambling without a licence or permit. While both situations result in unlawful gambling, the latter situation is generally considered by the Commission to be more serious.

Other powers

36.44 Licensing authorities may want to consider whether their officers have powers under other relevant legislation, such as the Licensing Act 2003 or Local Government Act 1972. For example, s.87, s.88 and s.89 of the Licensing Act 2003 give licensing authorities the ability to review club premises certificates, including suspending and withdrawing certificates, and s.90 allows licensing authorities to withdraw certificates where it appears to the licensing authority that the club does not satisfy the conditions for being a qualifying club.

36.45 There are various local authority and police powers to manage issues such as street drinking and anti-social behaviour, and licensing authorities should look to these powers in the first instance as being more appropriate remedies than the Act.

36.46 Whilst of limited use due to the absence of a central database and the ability to share information with other authorities, licensing authorities may wish to consider the use of police cautions as a deterrent.

Case law, templates and case studies

36.47 Supplementary enforcement and compliance materials are available on the Commission's website including case law, sample conditions, letter templates and examples of circumstances in which LAs have made effective use of their powers under the Act.

Gambling Commission September 2015

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: **www.gamblingcommission.gov.uk.** Copies of this document are available in alternative formats on request.

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Appendix A: Summary of machine provisions by premises

<table>
<tr><th></th><th colspan="7">Machine category</th></tr>
<tr><th>Premises type</th><th>A</th><th>B1</th><th>B2</th><th>B3</th><th>B4</th><th>C</th><th>D</th></tr>
<tr><td>Large casino (machine/table ratio of 5-1 up to maximum)</td><td rowspan="12"></td><td colspan="6">Maximum of 150 machines
Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)</td></tr>
<tr><td>Small casino (machine/table ratio of 2-1 up to maximum)</td><td colspan="6">Maximum of 80 machines
Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)</td></tr>
<tr><td>Pre-2005 Act casino (no machine/table ratio)</td><td colspan="6">Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead</td></tr>
<tr><td>Betting premises and tracks occupied by pool betting</td><td rowspan="11"></td><td colspan="5">Maximum of 4 machines categories B2 to D (except B3A machines)</td></tr>
<tr><td>Bingo premises[1]</td><td rowspan="10"></td><td colspan="2">Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4</td><td colspan="2">No limit on category C or D machines</td></tr>
<tr><td>Adult gaming centre[2]</td><td colspan="2">Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4</td><td colspan="2">No limit on category C or D machines</td></tr>
<tr><td>Licensed family entertainment centre[3]</td><td rowspan="2"></td><td rowspan="2"></td><td colspan="2">No limit on category C or D machines</td></tr>
<tr><td>Family entertainment centre (with permit)[3]</td><td></td><td>No limit on category D machines</td></tr>
<tr><td>Clubs or miners' welfare institute (with permits)[4]</td><td colspan="3">Maximum of 3 machines in categories B3A or B4 to D</td></tr>
<tr><td>Qualifying alcohol-licensed premises</td><td rowspan="3"></td><td colspan="2">1 or 2 machines of category C or D automatic upon notification</td></tr>
<tr><td>Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)</td><td colspan="2">Number of category C-D machines as specified on permit</td></tr>
<tr><td>Travelling fair</td><td></td><td>No limit on category D machines</td></tr>
</table>

[1]Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight[104] category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

[2] Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

[104] The Gambling Act 2005 (Gaming Machines in Bingo Premises) Order 2009

[3].Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
[4].Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.
[5]Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

Appendix B: Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (from Apr 2019)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

Appendix C: Summary of gaming entitlements for clubs and alcohol-licensed premises

	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	**Poker** £1000 / week £250 / day £10 /person per game **Other gaming** No limit	**Poker** £1000 / week £250 / day £10 / person per game **Other gaming** No limit	**Poker** £100 / premises per day **Other gaming** £5 / person per game **Cribbage & dominoes** No limit
Limits on prizes	No limit	No limit	**Poker** £250 / game **Other gaming** No limit	**Poker** £250 / game **Other gaming** No limit	**Poker** £100 / game **Other gaming** No limit
Max particip fees – per person per day	**Bridge/whist*** £20 **Other gaming** £3	£18 (without club gaming permit) £20 (with club gaming permit)	**Bridge/whist*** £18 **Other gaming** £3 (for a commercial club) £1 (members' club)	**Bridge/whist*** £18 **Other gaming** £1	None permitted
Bankers/ unequal chance gaming	Pontoon *Chemin de fer*	None permitted	None permitted	None permitted	None permitted
Limits on bingo ****	Maximum of £2,000 / week in stakes or prizes.	No bingo permitted	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.

***** On a day when no other facilities for gaming are provided
****** If more than the maximum, then an operating licence will be required.

Appendix D: Summary of offences under the Gambling Act 2005

General offences regarding the provision of gambling facilities

Providing gambling facilities in Great Britain without a relevant licence, permit, notice, or exemption included under the Act.	**S.33**
Using premises to provide gambling facilities from, or causing them to be provided, without a relevant licence, permit, notice or exemption under the Act.	**S.37**

Offence regarding cheating at gambling

Cheating, attempting to cheat, or assisting another person to cheat at gambling.	**S.42**

Offences committed towards or by under-18s

Inviting, causing or permitting a child (under 16) or young person (16 – 17) to gamble, with the exception of: • private / non-commercial gaming and betting • participating in lotteries • participating in football pools • using a category D gaming machine • participating in equal chance gaming at premises subject of a prize gaming permit or an FEC premises licence • participating in prize gaming at a fair or an unlicensed FEC This offence includes intentional distribution of advertising to under-18s where the intent is to encourage gambling. It is also an offence on the part of a young person to gamble with the exception of situations listed above.	**S.46** **S.48**
Inviting or permitting a child or young person to enter: • a casino • a betting premises (except for betting areas of horse and greyhound tracks on race days) • an adult gaming centre • areas of a family entertainment centre where category C gaming machines are situated. This offence is committed at all times when the premises listed above are being used in reliance on the premises licence. It is also an offence on the part of a young person to enter the premises listed above.	**S.47** **S.49**
Young person providing facilities for gambling, with the exception of: • private / non-commercial gaming and betting • a lottery • football pools • prize gaming at a travelling fair.	**S.50**
Employing a child or young person to provide gambling facilities, with the exception of providing the following facilities: • private / non-commercial gaming and betting • prize gaming at a travelling fair. Employing a child to provide facilities in connection with: • a lottery • football pools.	**S.51** **S.52**

Employing a child for any purposes when bingo is provided or gambling provided in accordance with a club gaming permit or club machine permit.	**S.53**
Employing a child or young person to perform any function connected to a gaming machine. It is also an offence on the part of a young person if they are employed in such a role.	**S.54**
Employing a child or young person in a casino, an adult gaming centre, or at a betting premises, unless it is at a time when no activity is being carried on in reliance on the premises licence. It is also an offence on the part of a young person if they are employed in such a role.	**S.55**
Inviting, causing or permitting a child to take part in football pools or a lottery with the exception of: • an incidental lottery • a private lottery • part of the National Lottery.	**Sections 56 and 57**
Failure to comply with an operating licence condition to return stake to a child or young person.	**S.58**

Offences connected to operating licences

Failure to comply with an operating licence condition to return stake to a child or young person.	**S.58**
Failing without reasonable excuse to notify the Commission of change in circumstances.	**S.101**
Licensee failing without reasonable excuse to produce their operating licence when requested by a police officer or enforcement officer.	**S.108**
Licensee failing to notify the Commission without reasonable excuse and as soon as reasonably practicable about conviction of an offence.	**S.109**
Licensee failing to notify the court upon conviction of a relevant offence that they are an operating licence holder.	**S.109**
Licensee failing without reasonable excuse to produce records for the Commission relating to operating licensed activities or information about licensed activities.	**S.122**
Operating licence holder fails without reasonable excuse to produce the authorisation they have given to someone to accept bets on their behalf, when asked to do so by a police officer or enforcement officer. This offence can also apply to the person that has been authorised to accept bets.	**S.316**

Offences connected to personal licences

Failure without reasonable excuse to produce a personal licence to a police officer or enforcement officer.	**S.134**
Licensee failing to notify the Commission as soon as reasonably practicable about a conviction of offence.	**S.138**
Licensee failing to act within the terms and conditions of their licence.	**S.139**

General offences connected to all premises licences

Licensee failing without reasonable excuse to keep premises licence on premises and make available for inspection to a police officer, enforcement officer or authorised person.	**S.185**
Licensee failing to notify without reasonable excuse the licensing authority about change of residential address or other details on the licence.	**S.186**

Offences connected to temporary use notices

Failure of premises licence holder to without reasonable excuse prominently display or make available their temporary use notice to a police officer, customs and excise officer, enforcement officer or licensing authority officer.	**S.229**

Offences connected to gaming machines

Making a gaming machine available for use without a relevant licence or permit, or in contravention of regulations made under s.240 of the Act (SI No 2007/2319).	**S.242**
Manufacturing, supplying, installing, adapting, maintaining, or repairing a gaming machine without a suitable operating licence, unless: • the gaming machine is scrap with no commercial value • the gaming machine is incidental to the sale/letting of previously-licensed property.	**S.243**
Supplying, installing, adapting, maintaining or repairing a gaming machine (or part of) without complying with regulations made under s.241 of the Act (SI: No. 2007/2320), unless: • the gaming machine is scrap with no commercial value • the gaming machine is incidental to the sale/letting of previously-licensed property.	**S.243**
Supplying, installing or making available for use a gaming machine allowing payment by credit card.	**S.245**

Offences connected to lotteries

The offences listed here do not apply to lotteries or products forming part of the National Lottery, which are dealt with under the National Lottery etc. Act 1998 rather than the Gambling Act 2005. Police enquiries regarding offences connected to the National Lottery should be directed to the Commission.

Promoting a non-exempt lottery without a suitable operating licence or on behalf of someone with a suitable operating licence.	**S.258**
Facilitating a non-exempt lottery without holding a suitable operating licence (where facilitating includes functions such as advertising and printing tickets and promotional materials).	**S.259**
Misusing profits from a lottery, ie using them or causing them to be used for purposes other than the advertised purpose of the lottery.	**S.260**
Misusing profits from an incidental lottery, a private society lottery, a work lottery, a residents' lottery or a small society lottery.	**S.261**
A non-commercial society promoting a lottery without being registered with a licensing authority, or failing to provide the licensing authority with returns (or providing false returns) following a small society lottery.	**S.262**

Offence connected to bingo played in clubs and institutes

Failing without reasonable excuse to inform the Commission of periods of high turnover bingo if the club or institute does not hold an operating licence (high turnover bingo being where the stakes or prizes of all games of bingo played in a seven day period exceed £2,000).	**S.275**

Offence connected to use of proceeds from gaming at non-commercial events

Using the profits (or permitting them to be used) from non-commercial prize gaming or equal chance gaming for a purpose other than that specified as the fund-raising purpose of the gaming.	**S.301**

Offence connected to casino premises licences

Failure on the part of the casino premises licence holder to produce upon demand (by a police officer or enforcement officer) the authorisation they have given to someone to provide bingo or betting facilities at the casino in question. This offence can also be committed by the individual or organisation authorised by the casino premises licence holder if they fail to produce the authorisation.	**S.316**

Offence of obstructing or failing to co-operate during an inspection

Obstructing or failing to cooperate without reasonable excuse with a police officer, enforcement officer or authorised person carrying out inspection activity under Part 15 of the Act.	**S.326**

Offence of providing false or misleading information

Providing false or misleading information to the Commission or a licensing authority regarding any provision of the Act.	**S.342**

Offences connected to advertising of gambling facilities

Contravention of any regulations relating to gambling advertising. (Nb the Secretary of State for Culture, Media and Sport has chosen not to exercise their reserve powers to make such secondary legislation at this time).	**S.328**
Knowingly advertising unlawful gambling without reasonable belief otherwise.	**S.330**
Advertising foreign gambling facilities other than lotteries (in accordance with regulations SI: 2007/2329).	**S.331**

Offence of failing to comply with a forfeiture order

Failure to comply with a court's forfeiture order to surrender named materials to a police officer, or co-operate with steps to comply with the order.	**S.345**

Offence connected to unlicensed family entertainment centres

Occupier of premises failing without reasonable excuse to produce their family entertainment centre gaming machine permit for a police officer, enforcement officer or authorised officer.	**Schedule 10(20)**

Offences connected to club gaming and club machine permits

Failing without reasonable excuse to produce a club gaming permit or club machine permit for a police officer or enforcement officer.	**Schedule 12(13)**

Failure without reasonable excuse to have club gaming or club machine permits varied by the licensing authority as soon as practicable upon a change of circumstances.	**Schedule 12(15)**

Offence connected to alcohol licensed premises gaming machine permits

Failure without reasonable excuse to produce a licensed premises gaming machine permit upon the request of a police officer, enforcement officer or authorised person.	**Schedule 13(10)**

Offence connected to prize gaming permits

Failure without reasonable excuse to produce a prize gaming permit upon the request of a police officer, enforcement officer or authorised person.	**Schedule 14(20)**

Offence connected to gambling software

Manufacturing, supplying, installing or adapting gambling software without holding a relevant operating licence.	**S.41**

Offence connected to chain-gift schemes

Inviting another person to join chain-gift schemes or participating in the promotion of chain-gift schemes.	**S.43**

Appendix E: Summary of statutory application forms and notices[105]

List of prescribed forms
Application Application for a premises licence under the Gambling Act 2005 (standard form) Application for a premises licence under the Gambling Act 2005 (vessel) Notice of application for a premises licence under the Gambling Act 2005 (to be published) Notice of application for a premises licence (Form A) (for responsible authorities) Notice of application for a premises licence (Form B) (for responsible authorities) Summary of the Terms and Conditions of a premises licence Premises licence Notice of a grant of an application for a premises licence Annex A – form to accompany notice of grant (conditions to be attached) Annex B – form to accompany notice of grant (conditions to be excluded) Annex C – form to accompany notice of grant (representations) Notice of rejection of an application for a premises licence
Variation Application to vary a premises licence under the Gambling Act 2005 Notice of Application to vary a premises licence under the Gambling Act 2005 (to be published) Notice of Application to vary a premises licence (Form A) (for responsible authorities) Notice of Application to vary a premises licence (Form B) (for responsible authorities) Notice of grant of an application to vary a premises licence Annex A – form to accompany notice of grant (conditions to be attached) Annex B – form to accompany notice of grant (conditions to be excluded) Annex C – form to accompany notice of grant (representations) Notice of rejection of an application to vary a premises licence
Review Application for a review of a premises licence under the Gambling Act 2005 Notice of application for a review of a premises licence under the Gambling Act 2005 Notice of application for a review of a premises licence (to the premises licence holder and responsible authorities) Notice of intention to hold a review of a premises licence under the Gambling Act 2005 Notice of intention to hold a review of a premises licence (to the premises licence holder) Notice of the decision on a review of a premises licence
Provisional Application for a provisional statement under the Gambling Act 2005 (standard form) Notice of application for a provisional statement under the Gambling Act 2005 Application for a provisional statement under the Gambling Act 2005 (vessel) Notice of application for a provisional statement (Form A) (for responsible authorities) Notice of application for a provisional statement (Form B) (for responsible authorities) Provisional statement Notice of grant of an application for a provisional statement Annex A – form to accompany notice of grant (conditions to be attached) Annex B – form to accompany notice of grant (conditions to be excluded) Annex C – form to accompany notice of grant (representations) Notice of rejection of an application for a provisional statement

[105] Statutory application forms and notices

Transfer
Application to transfer a premises licence under the Gambling Act 2005
Notice of application to transfer a premises licence (Form A) (for responsible authorities)
Notice of application to transfer a premises licence (Form B) (for responsible authorities)
Summary of terms and conditions of a premise licence
Premises Licence
Notice of grant of an application to transfer a premises licence
Annex A – form to accompany notice of grant (conditions to be attached)
Annex B – form to accompany notice of grant (conditions to be excluded)
Annex C – form to accompany notice of grant (representations)
Notice of rejection of an application to transfer a premises licence

Reinstatement
Application for the reinstatement of a premises licence under the Gambling Act 2005
Notice of application of the reinstatement of a premises licence (Form A)
Notice of application of the reinstatement of a premises licence (Form B)
Summary of terms and conditions of a premise licence
Premises Licence
Notice of grant of an application for the reinstatement of a premises licence
Annex A – form to accompany notice of grant (conditions to be attached)
Annex B – form to accompany notice of grant (conditions to be excluded)
Annex C – form to accompany notice of grant (representations)
Notice of the rejection of an application for the reinstatement of a premises licence

Temporary Use Notices
Gambling Act 2005 – Temporary Use Notice (for premises other than vessels)
Gambling Act 2005 – Temporary Use Notice (vessel)
Counter Notice (given in response to a temporary use notice)

Permits /lottery
Application Form for Club Gaming Permit or Club Machine Permit
Registration of Small Society Lotteries (Application form for registration of non commercial society)
Club Gaming Permit
Club Machine Permit
Prize Gaming Permit
Family Entertainment Centre Gaming Machine Permit
Licensed Premises Gaming Machine Permit

Appendix F: Inspection powers

PO Police Officer
EO Enforcement Officer
AP Authorised Person
LAAP Licensing Authority Authorised Person

Section of Act	Classes of person	Premises to which the inspection power applies	Purpose for which inspection power is available
S.307 Inspection of gambling	PO, EO, AP	Reasonable suspicion of provision at premises of gambling other than private and non-commercial gaming or betting	(a) Whether gambling facilities are/have been provided (b) Whether there is an operating licence or premises licence (c) Whether there is compliance with licence conditions
S.308 Operating licence holders	PO, EO	Reasonable belief premises used by operating licensed holder for purpose connected with licensed activities	Whether there is compliance with licence conditions
S.309 Family Entertainment Centres	PO, EO, LAAP	Premises for which an application for a family entertainment centre gaming machine permit has been made	(a) A purpose connected with consideration of the application (b) For determining whether gaming machines comply with the Act and the Regulations
S.310(1) Premises licensed for alcohol	EO, LAAP	Premises licensed for the supply of alcohol	A purpose connected with consideration of the application
S.310(2) Premises licensed for alcohol	PO, EO, LAAP	Premises licensed for alcohol for consumption on the premises	(a) whether gaming satisfies conditions under S179 for exempt gaming (b) whether there is compliance with any operating licence conditions where bingo is played (c) whether high turnover bingo is played under s181 (d) the number and category of gaming machines available for use
S.311 Prize gaming permits	PO, EO, LAAP	Premises for which an application for a prize gaming permit has been made	(a) A purpose connected with the consideration of the application (b) For determining whether prize gaming complies with the Act and the Regulations
S.312(1)-(3) Clubs	PO, EO	Premises reasonably believed to be a members' club , commercial club or miners welfare institute	(a) whether gaming is or is about to take place (b) whether any gaming accords with a club gaming permit, club machine permit or exempt gaming provision under s169
S.312(4) Clubs	LAAP	Premises for which an application for a club gaming permit or club machine permit has been made	A purpose connected with consideration of the application

S.313(1) Licensed premises	PO, EO, AP	Premises for which an application for a premises licence has been made	Assess likely effects of activities on licensing objectives
S.313(2) Licensed premises	PO, EO, AP	Premises for which a premises licence is in force	A purpose connected with a premises licence review under s201
S.314 Registered society lotteries	EO, LAAP	Premises owned or used by a (non-commercial) society registered with a local authority for exempt lotteries	Enquiries in connected with a lottery promoted on behalf of the society
S.315(1) Temporary use notice	PO, EO, AP	Premises for which a temporary use notice has been notified	Assess likely effectives of activities on licensing objectives
S.315(2) Temporary use notice	PO, EO, AP	Premises for which a temporary use notice has effect	Whether activities accord with the temporary use notice

Appendix G: Licensing authority delegations

Summary of licensing authority delegations permitted under the Gambling Act, applicable to England and Wales only

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of the Licensing Authority statement of policy	**X**		
Policy not to permit casinos	**X**		
Fee setting (when appropriate)		**X** (if delegated by full council)	
Application for premises licences		**X** Where representations have been received and not withdrawn	**X** Where no representations received/ representations have been withdrawn
Application for a variation to a licence		**X** Where representations have been received and not withdrawn	**X** Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		**X** Where representations have been received from the Commission or responsible authority	**X** Where no representations received from the Commission or responsible authority
Application for a provisional statement		**X** Where representations have been received and not withdrawn	**X** Where no representations received/ representations have been withdrawn
Review of a premises licence		**X**	
Application for club gaming/club machine permits		**X** Where objections have been made and not withdrawn	**X** Where no objections made/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**	

X indicates the lowest level to which decisions can be delegated

Summary of licensing authority delegations permitted under the Gambling Act, applicable to Scotland only

Matter to be dealt with	Licensing Board	Committee of Licensing Board or member of the Licensing Board	Clerk of the Licensing Board (and member of staff appointed to assist the clerk)
Final approval of the Licensing Authority statement of policy	**X**		
Policy not to permit casinos	**X**		
Application for premises licences		**X** Where representations have been made and not withdrawn	**X** Where no representations made/ representations have been withdrawn
Application for a variation of a premises licence		**X** Where representations have been made and not withdrawn	**X** Where no representations made/ representations have been withdrawn
Application for a transfer of a licence		**X** Where representations have been received from the Commission	**X** Where no representations received from the Commission
Application for a provisional statement		**X** Where representations have been made and not withdrawn	**X** Where no representations made/ representations have been withdrawn
Review of a premises licence		**X**	
Application for club gaming/club machine permits		**X** Where objections have been made and not withdrawn	**X** Where no objections made/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**	

X indicates the lowest level to which decisions can be delegated

Appendix H: Poker games and prizes

(i) The overall winner wins the pot in each game and wins an overall prize based on points

If the tournament winner played three games in the whole tournament, and his winnings (from the pot) in each of these games were £100, £70 and £60 respectively, each game would fall under the £100 prize limit. This would leave £0 from the first game, £30 from the second game and £40 from the third game, which could be put towards the winner's overall tournament prize. In these circumstances, the tournament prize could be up to £70 (£0 + £30 + £40). Thus where the pot in individual games is under £100, the tournament winner's overall prize must not exceed the aggregate of the shortfall in each of the games he plays.

(ii) The overall winner is only awarded points in each game and wins an overall prize based on points

Let's still assume that the tournament winner plays three games in the whole tournament. If there is no individual prize in any of the three games, then the overall prize can be up to £300 (£100 for each game the winner has played). If, on the other hand, the winner played in only two games, then his overall prize may not exceed £200, and so on. Please note that the relevant number of games is the games in which the winning player participated, and not only the games that they won.

Organisers of such competitions will therefore need to work out the total value of any overall prize with reference to the number of games to be played by the overall winner and the total pot (if any) in each game.

While 'non-cash' poker for points leagues can provide harmless and legal entertainment, those promoting such leagues should be aware of the Commission's code of practice on equal chance gaming, and take steps to prevent individual stakes limits being exceeded through side bets or illegal activity such as agreements to 'settle' games outside the gaming area. Where illegal activity is detected, licensing authorities should consider the removal of the alcohol-licensed premises' exemption, which allows poker and other exempt gaming to be played.

(iii) The overall winner is only awarded points in each game and wins an overall prize such as the opportunity to participate in a major poker tournament, casino vouchers, holidays, etc

In these circumstances, tournament organisers must ensure that the statutory limits for poker in alcohol-licensed premises and clubs are complied with. In particular, they must carefully consider the value of the prizes offered for games leading up to the tournament final (including money's worth or non-monetary prizes such as holidays, cars, casino vouchers, or buy-ins or seats at the final). In addition, organisers should take into account that where players are competing across premises for an overall prize, they are likely to be engaged in linked gaming, which is not permitted.

(iv) Free or donated prizes are awarded to players in addition to the maximum prize pools for poker in clubs and alcohol licensed premises

The Act refers to money or money's worth in respect of prizes. This would include free or donated prizes which have an intrinsic value. Any prizes offered in addition to the prize pool must remain within the limits for prizes in games of poker in clubs and alcohol licensed premises. The prize limit is £250 per game in a club and £100 per game in a pub. Therefore, for example, if the prize pool available for a particular game is £80, then any non-monetary prizes must not have a value exceeding £20.

(v) Poker is offered in a members' club or miners' welfare institute with a club gaming permit

Members' clubs or miners' welfare institutes with club gaming permits may offer poker with unlimited stakes and prizes, but the only persons who may participate in such gaming are club members and their genuine guests. In this regard, the club must be able to demonstrate that it has a genuine and legitimate club membership scheme. Clubs must also ensure that the statutory limits on participation fees are not exceeded. The limit for bridge and whist is £20 and for other gaming is £3. In addition, there is a limit of a maximum of £2,000 per week in stakes and prizes for bingo in a members' club or welfare institute. If it is the intention of the club or institute to exceed these limits, it will be necessary for them to apply for an operating licence.

What constitutes 'money's worth'?

Money's worth relates to the realistic value of the prize offered. It includes emoluments, vouchers, goods or other items which have a value. A prize such as a 'goody bag' would be considered money's worth and is, therefore, subject to the statutory limits for exempt gaming. Donated prizes would also be considered money's worth. This would include prizes such as the buy-ins at major poker tournaments or the opportunity to participate in poker tournaments at venues such as Monte Carlo, especially as this type of prize is likely to include the cost of the airfare and accommodation.

Appendix I: Glossary of terms

The Act	The Gambling Act 2005
AGCs	Adult Gaming Centres
ATM	Automated telling machine
AWP	Amusement with prizes
BRDO	Better Regulation Delivery Office
CCTV	Closed Circuit Television
The Commission	The Gambling Commission
COSLA	Convention of Scottish Local Authorities
DCLG	Department of Communities and Local Government
DCMS	Department for Culture, Media and Sport
EBT	Electronic Bingo Terminal
ELM	External lottery manager
FCA	Financial Conduct Authority
FECs	Family Entertainment Centres
Guidance	Guidance to Licensing Authorities, issued by the Commission under S.25 of the Gambling Act 2005
HRA 1998	Human Rights Act 1998
IOL	Institute of Licensing
LACE	Local Authority Compliance Events
LBO	Licensed betting office
LCCP	Licence Conditions and Codes of Practice
LGA	Local Government Association
LSO	Licensing Standards Officer
OC	Ordinary Code
OUN	Occasional use notices
Statement of policy	Licensing Authority's statement of licensing policy published under S.349 of the Gambling Act 2005
PA	Primary Authority
SIA	Security Industry Authority
SOLAR	Society of Local Authority Lawyers and Administrators
SR code	Social Responsibility code
SSBT	Self-service betting terminal
SSL	Small society lotteries
SWP machines	Skill with prizes machines
TUN	Temporary use notices
uFECs	Unlicensed Family Entertainment Centres
VBT	Video bingo terminals
WLGA	Welsh Local Government Association

PART 1 MANDATORY CONDITIONS ATTACHING TO BINGO PREMISES LICENCES

1. A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.

2. No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect—

(a) a casino premises licence;

(b) an adult gaming centre premises licence;

(c) a betting premises licence other than a track premises licence; and

3.—(1) This paragraph shall apply where children or young persons or both are permitted by the licence holder to enter the premises, and Category B or C gaming machines are made available for use on the premises.

(2) Any area of the premises to which category B and C gaming machines are located—

(a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;

(b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and

(c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph (3).

(3) The reference to supervision in this paragraph means supervision by—

(a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or

(b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.

(4) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.

4.—(1) In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.

(2) In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.

(3) The notice in sub-paragraph (2) shall include the following information—

(a) the cost (in money) of each game card (or set of game cards) payable by an individual in respect of a game of bingo;

(b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a participation fee for entitlement to participate in that game; and

(c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.

(4) The notice may be displayed in electronic form.

(5) A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning of “prize gaming”) applies.

5.—(1) The rules of each type of game that is available to be played the premises other than games played on gaming machines shall be made available to customers within the premises.

(2) The condition in sub-paragraph (1) may be satisfied by—

(a) displaying a sign setting out the rules,

(b) making available leaflets or other written material containing the rules, or

(c) running an audio-visual guide to the rules prior to any bingo game being commenced.

6. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

PART 2 DEFAULT CONDITIONS ATTACHING TO BINGO PREMISES LICENCES

1. Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am.

2. The condition in paragraph 1 shall not apply to making gaming machines available for use.