



# **GAMBLING ACT 2005**

## **SECTION 349**

# **STATEMENT OF PRINCIPLES**

This Statement of Principles, unless otherwise amended, will remain in force from 1<sup>st</sup> January 2018 until 30<sup>th</sup> January 2019

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5<sup>th</sup> Edition, September 2015, Parts 17, 18 & 19 updated September 2016*

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# PART A

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## 1.0 Consultation on the Statement of Principles

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- 1.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. The content of this statement has been harmonised with requirements of official guidance published by the Gambling Commission. In summary, the statement is a policy document detailing how East Hampshire District Council will make decisions under the provisions of the Gambling Act 2005, how the Act will be enforced and what criteria will be taken into account when considering applications for a variety of different licences, permits and notices. This statement must be published at least every three years. The statement must also be reviewed from time to time and any amended parts re-consulted upon. The statement must then be re-published.
- 1.2 The Licensing Authority consulted widely upon this statement before finalising and publishing it. A list of those persons consulted is provided at Appendix A. They represent persons/bodies who appeared to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the district, together with persons/bodies who appeared likely to be affected by the exercise of the Licensing Authority's functions under the Act. It should be noted that comments may have been received from other people but these are not listed.
- 1.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police for Hampshire;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the East Hampshire District 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.
- 1.4 The full list of comments received and the considerations made by the Council can be obtained from the Licensing, Environmental Health, East Hampshire District Council, Penns Place, Petersfield, Hampshire, GU31 4EX.
- 1.5 The first Policy was approved at a meeting of the full council on 22<sup>nd</sup> November 2006 and has been subsequently revised and published via the Councils website ([www.easthants.gov.uk](http://www.easthants.gov.uk)). Copies are placed in the public libraries as well as being available from Licensing at East Hampshire District Council offices.

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1.6 Any comments regarding this policy should be sent to:

Senior Environmental Health Officer (Licensing)  
East Hampshire District Council  
Penns Place  
Petersfield  
Hampshire GU31 4EX  
Tel: 01730 266551 Fax: 01730 234330  
Email: [licensing@easthants.gov.uk](mailto:licensing@easthants.gov.uk)

1.7 This policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

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## **2.0 Declaration**

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2.1 In publishing this document, this Licensing Authority declares that it has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on the policy statement.

2.2 The licensing objectives are:

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

2.3 The Licensing Authority is aware that the Gambling Commission has stated that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

2.4 The Licensing Authority recognises that legal gambling in a fair and open way, with suitable protection for children and vulnerable persons, can contribute to the local economy.

2.5 As a Licensing Authority, EHDC shall aim to permit the use of premises for gambling as set out in s.153 of the Gambling Act 2005.

2.6 In carrying out its functions, the Licensing Authority will regulate gambling premises in the public interest.

### 3.0 East Hampshire District

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3.1 Set in historic heathlands, beech hangers and classic chalk downlands, East Hampshire offers beautiful countryside and a rich cultural heritage together with a good mix of sport and entertainment facilities. It has a thriving business community and social life. It has a rich heritage and excellent transport links which makes it a great place to live, work and visit.

The district is nearly 200 square miles and serves a population of around 118,000 people. Approximately 59% of the population are aged between 16 years and 65 years. 79.5% of the population are economically active (employed, self-employed and unemployed). [www.nomisweb.co.uk](http://www.nomisweb.co.uk). Approximately half of the residents live in the four main centres; Alton, Bordon/Whitehill, Horndean and Petersfield. There are over 40 conservation areas within the District which are defined as “areas of special architectural or historic interest, the character of which it is desirable to preserve and enhance”. On the following page is a map of the district identifying the urban and rural areas.

The district has a number of premises conducting gambling activities:

8 Betting premises (premises other than a track)

1 Bingo premises

80 Alcohol licensed premises

1 club with a gaming permit

7 clubs with a machine permit

There are currently no Casinos or Tracks, gaming centres or family entertainment centres within the District.

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## **4.0 Responsible authorities and interested parties**

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4.1 When dealing with applications for and reviews of premises licences, the Licensing Authority will consider representations from two categories, referred to in the Act as “**responsible authorities**” and “**interested parties.**” The Licensing Authority will not normally consider other representations.

4.2 “**Responsible authorities**” are public bodies that must be notified of applications by the applicant. They are entitled to make representations in relation to them. They are as follows:

- The Licensing Authority in whose area the premises are wholly or partly situated
- The Gambling Commission
- The Chief Officer of Police
- The Fire and Rescue Authority
- The local Planning Authority
- The Environmental Health Service
- The Children’s Services Department
- HM Revenue and Customs and
- Any other person prescribed by the Secretary of State

4.3 A full list and contact details of all the “responsible authorities” under the Act are detailed on the Council’s website ([www.easthants.gov.uk](http://www.easthants.gov.uk)) and are available by contacting [licensing@easthants.gov.uk](mailto:licensing@easthants.gov.uk).

In exercising our powers under section 157(h) of the Act, the Licensing Authority will apply the following principles when designating a body competent to advise about the protection of children from harm:

- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

Accordingly, we have designated Hampshire Children’s Services Department to advise us about the protection of children from harm.

4.4 “**Interested parties**” are people or organisations who:

- live close enough to the relevant premises to be likely to be affected by the activities in question, or
- have business interests which may be affected by the activities in question, or
- represent people in either of the above two groups.



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They include:

- democratically elected people, including County, Town and Parish Councillors and Members of Parliament whose constituency includes the relevant premises;
- trade unions, trade associations, residents' and tenants' associations if, and only if, they have a member who is an interested person;
- other persons (e.g. advocates or relatives) who produce a written request from an Interested Party to represent them.

The Licensing Authority will interpret the expression "business interests" widely and will normally include, for example, partnerships, charities, faith groups and medical practices.

A Councillor who acts as a representative of an interested person at a hearing will not be able to sit on the Committee determining the application. (In case of doubt, please ask the Democratic Services Department.)

- 4.5 The Licensing Authority is required under section 158 of the Act to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence.

The principles are: Each case will be decided on its merits. The Licensing Authority will not apply a rigid rule to decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities.

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## **5.0 Exchange of Information**

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- 5.1 If the Licensing Authority exchanges information with other authorities it will act in accordance with:
- the Gambling Act 2005;
  - regulations made under it;
  - the Data Protection Act 1998 and any subsequent legislation relating to the sharing of data that may be introduced.

East Hampshire District Council is bound by the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Data Protection Act protects personal information from improper use. The Freedom of Information Act and the Environmental Information Regulations ensure that the Licensing Authority provides non-personal information on request, unless that information is excluded by a specific exemption in the Act or Regulations.

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- 5.2 Should any protocols be established regarding information exchange with other bodies then they will be made available on the Council's website [www.easthants.gov.uk](http://www.easthants.gov.uk).
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### **6.0 Compliance and Enforcement**

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- 6.1 Responsibility for enforcement is divided between the Gambling Commission and the Licensing Authority (East Hampshire District Council).
- 6.2 The Commission is responsible for:
- issuing operator and personal licences;
  - regulating the manufacture, supply or repair of gaming machines;
  - issuing Operator Licences for remote gambling (e.g. the internet).
- 6.3 The Licensing Authority is responsible for issuing and ensuring compliance with Premises Licences and other permissions which it gives. These are listed in paragraph 7.1.
- 6.4 In exercising functions under Part 15 of the Gambling Act 2005 and section 346 of the Gambling Act 2005, the Licensing Authority will:
- adopt a risk-based inspection programme;
  - consider the advice of the Local Better Regulation Office in relation to the regulatory functions of local authorities;
  - try to be:
    - proportionate: intervention only when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
    - accountable: decisions must be justified, and subject to public scrutiny;
    - consistent: rules and standards must be joined up and implemented fairly;
    - transparent: regulators should be open and keep regulations simple and user friendly; and
    - targeted: focused on the problem, and minimise side effects
  - Comply with the Council's Environmental Health general enforcement policy.
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### **7.0 Licensing Authority Functions**

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- 7.1 East Hampshire District Council will:
- be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*

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- Issue *Provisional Statements*
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing *Club Gaming Permits and/or Club Machine Permits*
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at unlicensed *Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

7.2 It should be noted that licensing authorities are not involved in licensing remote gambling. This is regulated by the Gambling Commission via operating licences.

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### 8.0 Local risk assessments

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8.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015. They formalise the need for operators to consider local risks.

8.2 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. They must have policies, procedures and control measures to mitigate those risks. In completing the risk assessment, they must take into account relevant matters identified in the licensing authority's statement of policy.

8.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. The 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 relevant matters identified in the licensing authority's statement of policy
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

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- 8.4 The new SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the Licensing authority when applying for a premises licence or applying for a variation to an 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.
- 8.5 Where concerns do exist, perhaps prompted by new or existing risks, the 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 reduced the occasions on which a premises review and the imposition of licence 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 as far as possible in their consideration of applications by making relevant information available as part of their applications.

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### **9.0 Local area profile**

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- 9.1 The Licensing Authority does not at this time propose to develop a local area profile having regard to the negligible level of complaints/concerns raised regarding gambling premises. However, this position will remain under review, and if it decides in the future to develop a local area profile, it will be separate to this policy.

## PART B

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### 10.0 Premises Licences: consideration of applications

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#### General Principles

10.1 Premises licences are subject to requirements set out in:

- the Act, and
- specific mandatory and default conditions which are set out in regulations made by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### 11.0 Decision-making

11.1 In accordance with Section 153 of the Act the Licensing Authority will aim to permit the use of premises for gambling provided the activities are in compliance with:

- any relevant code of practice issued by the Commission;
- any relevant guidance issued by the Commission;
- the licensing objectives;
- this Policy statement.

11.2 Moral objections to gambling or an unmet demand are not valid reasons on which to determine a premises licence. However, this does not apply where a “no casino” resolution is passed (see section 15.0 on Casinos).

#### 12.0 Definition of “premises”; including “split premises”

12.1 Premises is defined in the Act as “at any place”. Different premises licences cannot apply in respect of a single premises at different times. But a single building could be subject to more than one premises licence. This is provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Licensing Authority does not consider that areas of a building that are artificially or temporarily separate, for example by ropes or moveable partitions, can be properly regarded as different premises.

12.2 The Licensing Authority will 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. We are of the opinion that entrances and exits from parts of a building covered by one or more licences should be

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separate and identifiable. This is so that the separation of different premises is not compromised.

- 12.3 The Licensing Authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). There are specific issues to be considered before granting such applications, for example, whether children can gain access, compatibility of the two establishments, and ability to comply with the requirements of the Act. The overriding consideration is whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

### **13.0 Access Provisions**

- 13.1 The Licensing Authority will have regard to paragraph 7.25 of the Gambling Commission's Guidance to Licensing Authorities on relevant access provisions for each premises type.

#### **13.2 *Casinos***

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

#### **13.3 *Adult Gaming Centre***

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

#### **13.4 *Betting Shops***

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

#### **13.5 *Tracks***

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

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### 13.6 *Bingo Premises*

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

### 13.7 *Family Entertainment Centre*

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

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

## **14.0 Premises "ready for gambling"**

14.1 An applicant cannot obtain a full premises licence until the Licensing Authority is satisfied that the premises are going to be ready to be used for gambling in the reasonably near future. It is a question of fact and degree whether premises are finished to an extent that they can be considered for a premises licence.

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

14.3 In deciding whether a premises licence can be granted, where there are outstanding construction or alteration works at a premises, the Licensing Authority will determine applications on their merits. It will apply a two stage consideration process:

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

## **15.0 Casinos**

Applicants should note that the Licensing Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

## **16.0 Location**

16.1 Demand issues cannot be considered with regard to the location of premises. Only issues relating to the licensing objectives can be considered. The

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

### **17.0 Planning**

17.1 When determining applications, the Licensing Authority will take into consideration all relevant matters. The Guidance states that it must not consider irrelevant matters such as whether the premises has planning permission or building regulations approval for the proposal. However, 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 control.

### **18.0 Duplication with other regulatory regimes**

18.1 The Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. However, it will listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

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## **19.0 Licensing Objectives**

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19.1 Premises licences that are granted must be reasonably consistent with the licensing objectives. The Licensing Authority has considered the Gambling Commission's Guidance on this and confirm the following three objectives:

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

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitably located there and whether conditions may be appropriate, such as the provision of door supervisors.

The Licensing Authority is aware of the distinction between disorder and nuisance. In these circumstances, it will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.



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- **Ensuring that gambling is conducted in a fair and open way**

The Licensing Authority accepts that the Gambling Commission has greater control over this objective as it will be addressed via operating and personal licences. The possible exception to this is the licensing of tracks which is covered in Section 17 of this statement.

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

This objective includes preventing children from taking part in gambling. It can also be used to restrict advertising so that gambling products are not aimed at, or are particularly attractive to children. The Licensing Authority will consider whether specific measures are required at particular premises, such as supervision of entrances and/or machines, segregation of areas etc.

The Licensing Authority will keep up to date with any Codes of Practice issued by the Gambling Commission regarding this licensing objective, in relation to specific premises such as casinos.

The Licensing Authority will assume, for regulatory purposes, this objective includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. This licensing objective will be considered on a case-by-case basis.

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## **20.0 Conditions on premises licences**

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20.1 The Licensing Authority will ensure that any conditions imposed are proportionate to the circumstances which they are seeking to address, and will ensure that any premises licence conditions are:

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

20.2 Decisions upon individual conditions will be made on a case by case basis. However, there will be a number of measures the Licensing Authority will consider should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. Examples of measures that may be used are shown under some of the licence types detailed later in this statement. We will also expect the licence applicant to offer his/her own suggestions as to how the licensing objectives can be met effectively.

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20.3 In order to pursue the licensing objectives, the Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include:

- supervision of entrances;
- segregation of gambling from non-gambling areas frequented by children;
- supervision of gaming machines in non-adult gambling specific premises.

20.4 The Licensing Authority will also ensure that, where category C or above machines are on offer in premises to which children are admitted:

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

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

20.5 The Licensing Authority is aware that tracks (see Section 27) may be subject to one or more premises licences, provided each licence relates to a specified area of the track. We will consider the impact upon the third licensing objective and ensure that each type of premises is distinct and children are excluded from gambling where they are not permitted to enter.

20.6 There are certain conditions which we cannot attach to premises licence, namely:

- any condition on the premises licence which is impossible to comply with;
- conditions relating to gaming machine categories, numbers, or methods of operation;
- conditions which provide that membership of a club or body be required;
- conditions in relation to stakes, fees, winnings or prizes.

### **20.7 Door Supervisors**

The Licensing Authority may consider the need for door supervisors in certain circumstances. Door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority (SIA). However, it will apply similar standards as used by the SIA where possible.

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- 20.8 For premises other than casinos and bingo premises, the Licensing Authority may decide that supervision of entrances and/or machines is appropriate in particular cases. This supervision may require licensing by the SIA. It will not be automatically assumed that they need to be supervised.
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### **21.0 Other Legislation**

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- 21.1 The Licensing Authority will not take into account matters not related to gambling and the licensing objectives when considering an application for a premises licence. However, it is for the operator to ensure that premises comply with all other relevant legislation such as fire safety, food safety, health & safety and trading standards. These examples are not exhaustive, and applicants must ensure that they comply with all other regulatory regimes in respect of their employees and the public.
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### **22.0 Adult Gaming Centres**

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- 22.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example, that persons under the age of 18 do not have access to the premises.
- 22.2 The Licensing Authority may consider measures put forward by the applicant to meet the licensing objectives. Appropriate measures/licence conditions may cover issues such as:
- proof of age schemes
  - CCTV
  - supervision of entrances/machine areas
  - physical separation of areas
  - location of entry
  - notices/signage
  - specific opening hours
  - self-exclusion schemes
  - provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory or exhaustive; it gives examples of measures that can be taken.

## **23.0 Licensed Family Entertainment Centres**

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- 23.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machine areas.
- 23.2 The Licensing Authority may consider measures put forward by applicants to meet the licensing objectives. Appropriate measures/licence conditions may cover issues such as:
- proof of age scheme where appropriate
  - CCTV
  - supervision of entrances/machine areas
  - physical separation of areas
  - location of entry
  - notices/signage
  - specific opening hours
  - self-exclusion schemes
  - provision of information leaflets/helpline numbers for organisations such as GamCare
  - measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory or exhaustive; it gives examples of measures that can be taken.

- 23.3 The Licensing Authority will refer to any conditions applied by the Gambling Commission to operating licences, covering the way in which the area containing the category C machines should be defined. The Licensing Authority will ensure it is aware of any mandatory or default conditions on these premises licences, when they have been published.

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## **24.0 Casinos**

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- 24.1 No Casinos resolution

The Licensing Authority has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Any decision to pass such a resolution will be made by the Full Council.

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### **24.2 Casinos and competitive bidding**

The Licensing Authority is aware that where a licensing authority area is enabled to grant a premises licence for a casino there are likely to be a number of operators who will want to run the casino. In such situations, the Licensing Authority would run a 'competition' under Schedule 9 of the Gambling Act 2005 and any other regulations/codes of practice issued under that Act.

### **24.3 *Licence considerations/conditions***

The suitability and layout of casino premises and any additional guidance issued by the Gambling Commission will be taken into account.

### **24.4 *Betting machines***

When considering the number, nature and circumstances of betting machines an operator wants to offer in casinos, the following will be taken into account:

- the size of the premises;
- the number of counter positions available for person-to-person transactions;
- the ability of staff to monitor the use of the machines by children and young persons, or by vulnerable people.

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## **25.0 Bingo premises**

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25.1 The Licensing Authority will need to be satisfied that bingo can be played in any bingo premises for which it issues a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises. And then applies for a new premises licence, or multiple licences, for that or those excluded areas.

25.2 The Gambling Commission's Guidance at paragraph 18.8 is noted regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted. In particular that is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

25.3 If children are allowed to enter premises licensed for bingo they are not permitted to participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Licensing Authority will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier. This must be

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effective in preventing access other than through the designated entrance;

- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder;
- at the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

25.4 When determining the suitability and layout of bingo premises, the Licensing Authority will consider the guidance issued by the Gambling Commission.

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## **26.0 Betting premises**

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26.1 When considering the number, nature and circumstances of betting machines an operator wants to offer on betting premises, the following will be taken into account:

- the size of the premises;
  - the number of counter positions available for person-to-person transactions;
  - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people.
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## **27.0 Tracks**

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27.1 Tracks are sites where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the “totalisator” or “tote”), and also general betting, often known as “fixed-odds” betting.

27.2 Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. It is important to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

27.3 The Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. 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. However, they must be prevented from

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entering areas where gaming machines (other than category D machines) are provided.

27.4 Applicants may offer their own measures to meet the licensing objectives. Appropriate measures/licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-barring schemes
- provision of information leaflets/helpline numbers for organisations such as GamCare

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

### **27.5 Gaming machines**

The Licensing Authority will consider the location of these machines on tracks and any special measures that should apply to the supervision of the machines and the prevention of children from playing them. Applicants for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are permitted to play category D gaming machines on a track.

### **27.6 Betting machines**

When considering the number, nature and circumstances of betting machines an operator wants to offer on track premises, the following will be taken into account:-

- the size of the premises;
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people.

The number and location of such machines in respect of applications for track betting premises licences may be restricted.

### **27.7 Condition on rules being displayed**

The Licensing Authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office.

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### **27.8 Applications and plans**

The applicant will be required to provide the information detailed in the regulations under the Act together with detailed plans for the race track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). The plans do not need to be to a particular scale, but should be drawn to scale. The precise location of where betting facilities are provided is not required to be shown.

27.9 In the case of dog tracks and horse race courses, plans should show fixed and mobile pool betting facilities operated by the tote or track operator, as well as any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

27.10 Some tracks may be situated on agricultural land where the perimeter is not defined by an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

27.11 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

27.12 Where there is an off-course betting operator running a self-contained unit on the track premises, separate premises licences will be required to ensure that there is clarity between the respective responsibilities of the track operator and the betting operator.

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## **28.0 Travelling Fairs**

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28.1 Where Category D machines and/or equal chance prize gaming without a permit, are to be made available for use at travelling fairs, the Licensing Authority will determine that the facilities for gambling amount to no more than an ancillary amusement at the fair. The operation must, of course, fall within the statutory definition of a travelling fair.

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



## **29.0 Provisional Statements**

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

There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

29.2 Once the premises are constructed, altered, or acquired, the holder of a provisional statement can return to this authority and submit an application for the necessary premises licence. It is a question of fact and degree whether premises are finished to the extent that they can be considered for a premises licence.

29.3 Following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the 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 objectors at the provisional stage, or
- in the authority's opinion, reflect a change in the operator's circumstances.

29.4 The Licensing Authority will not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

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## **30.0 Reviews of premises licences**

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30.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried out. Any request for a review must be:

- in accordance with any relevant code of practice issued by the Gambling Commission;

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- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives;
- in accordance with this Licensing Authority's statement of principles.

Requests considered to be frivolous, vexatious or repetitive will not be acted upon.

- 30.2 The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## Part C – Permits/Temporary & Occasional Use Notices/Society Lotteries

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### 31.0 Family Entertainment Centre Gaming Machine Permits

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- 31.1 A family entertainment gaming machine permit is a permit issued by the licensing authority authorising a person to make Category D gaming machines available for use in a specified family entertainment centre. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (section 238).
- 31.2 In determining the suitability of an applicant for a permit, the Licensing Authority will have regard to the licensing objectives and to any relevant guidance issued by the Gambling Commission under section 25 and in particular matters relating to child protection.
- 31.3 An application for a permit will be granted only if the Licensing Authority is satisfied that the premises will be used as a Family Entertainment Centre (FEC) and if the Chief Officer of Police has been consulted on the application.
- 31.4 The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The adequacy of such policies and procedures will each be considered on their merits; however, they may include the following:
- appropriate measures and training for staff to deal with the presence of suspected truant school children on the premises;
  - measures/training for staff and how to deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 31.5 The Licensing Authority will also expect that:
- applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
  - staff are trained to have a full understanding of the maximum stakes and prizes.

The Local Authority cannot attach conditions to this type of permit.

## **32.0 Gaming machine permits in premises licensed to sell alcohol**

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### **32.1 Automatic entitlement: 2 machines**

Premises, licensed to sell alcohol for consumption on the premises, can automatically have two gaming machines, of categories C and/or D. However, the premises licence holder must notify the licensing authority. This automatic authorisation can be removed if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives, or
- gaming has taken place on the premises that breaches a condition of section 282 of the Act, or
- the premises are mainly used for gaming, or
- an offence under the Act has been committed on the premises.

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

32.3 If a person wishes to have more than two machines, then they must apply for a permit. The application will be considered based upon the licensing objectives, guidance issued by the Gambling Commission, and any other relevant matters.

32.4 Such 'relevant matters' will be decided on a case by case basis. There will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machines. Measures which will satisfy this authority may include:

- the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by persons under the age of 18;
- notices and signage;
- provision of information leaflets/helpline numbers for organisations such as GamCare.

32.5 The Licensing Authority recognises that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. This is likely to require an application for an Adult Gaming Centre premises licence.

32.6 The Local Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Any other form of condition cannot be attached. However, the holder of a permit should comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **33.0 Prize Gaming Permits**

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- 33.1 In making its decision on an application for this permit, the Local Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 33.2 The applicant should set out the types of gaming that they are intending to offer and should be able to demonstrate that:
- they understand the limits to stakes and prizes that are set out in Regulations;
  - the gaming offered is within the law
  - clear policies that outline the steps to be taken to protect children from harm.
- 33.3 Although there are conditions in the Gambling Act 2005 by which the permit holder must comply, the licensing authority cannot attach any conditions. The conditions in the Act specify:
- limits on participation fees;
  - that 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;
  - that 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.

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

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- 34.1 Members' clubs (but not commercial clubs) may apply for a Club Gaming Permit or a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming and games of chance as set out in regulations. The Club Gaming Machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D).
- 34.2 Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations under the Act. It is anticipated that

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this will cover bridge and whist clubs which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

34.3 An application may be refused if:

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

34.4 There is a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced. These are:

- that the club is established primarily for gaming, other than gaming prescribed under Schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming;
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

34.5 There are statutory conditions on club gaming permits. Firstly, no child is permitted to use a category B or C machine on the premises. Secondly, the holder must comply with any relevant code of practice about the location and operation of gaming machines.

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## **35.0 Temporary Use Notices (TUNs)**

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35.1 A person may use premises to carry on an activity listed in section 37(1) of the Act if a Temporary Use Notice (TUN) has effect in respect of the premises.. Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

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- 35.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 35.3 There are a number of statutory limits regarding TUNs. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with “premises” the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises” the Licensing Authority will look at, amongst other things, the ownership, occupation and control of the premises. A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- 35.4 The Licensing Authority will consider objecting 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.
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### **36.0 Occasional Use Notices (OUNs)**

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- 36.1 Where there is betting on a track on eight 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. The Licensing Authority has very little discretion regarding these notices apart from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Licensing Authority will consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.
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### **37.0 Small Society Lotteries**

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- 37.1 A society can register with the licensing authority to run small lotteries. Section 19 of the Act defines a society as such if it is established and conducted:
- for charitable purposes
  - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain

A lottery is an arrangement that satisfies all of the criteria contained in section 14 of the Act.

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37.2 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
- 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 to print it.

37.3 All registered small society lottery operators are required 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 may inspect the records of the lottery for any purpose related to the lottery.

37.4 With regard to where lottery tickets may be sold the Licensing Authority will follow the Gambling Commission's recommendation and apply the following criteria to all small society lottery operators:

- tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls)
- tickets may, however, be sold in a street from a kiosk, in a shop or door to door.

This approach is consistent with the operating licence conditions imposed upon operators of large lotteries and local authority lotteries.

37.5 The Act sets out the limits for society lotteries 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.



## Part D – Other Information

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### 38.0 Rights of appeal and judicial review

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38.1 Decisions of this Licensing Authority may be subject to an appeal in accordance with the provisions of the Act and judicial review. It is recognised that failure to give reasons for a decision may compel a person to appeal. The Licensing Authority will:

- give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so;
- wherever practicable, as best practice, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.

38.2 Appeals must be made to the local magistrates' court within a period of 21 days beginning on the day when the appellant was notified of the Licensing Authority's decision.

38.3 Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from an advisor who specialises in the law on gambling.

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### 39.0 Other matters

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39.1 To ensure that applicants and people who make representations are kept properly informed, the following information will be available on the Council's website, [www.easthants.gov.uk](http://www.easthants.gov.uk), or by contacting Licensing at East Hampshire District Council:

- a register of premises licences issued by this Licensing Authority
- details on fees
- guidance on how to make an application
- a list of responsible authorities with contact details
- application forms, where appropriate
- how to make representations and
- how to apply for a review of a licence

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**40.0 Licensing Authority Delegations**

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

# **Appendix A**

## **List of Consultees**

1. The Bingo Association
2. British Beer & Pub Association
3. Association of British Bookmakers (ABB)
4. Business in Sport & Leisure
5. Casino Operators' Association of the UK (COA UK)
6. Racecourse Association Limited
7. British Amusement Catering Trade Association (BACTA)
8. British Casino Association (BCA)
9. Responsibility in Gambling Trust
10. Gamcare
11. Gamblers Anonymous (UK)
12. Area representative British Institute of Innkeeping (BII)
13. British Institute of Innkeeping (BII)
14. District Councillors
15. The Chief Officer of Police for Hampshire
16. Citizens' Advice Bureaux (CAB)
17. Trading Standards
18. Parish Councillors
19. Neighbourhood Watch
20. Chairman of Standards Committee EHDC
21. Current holders of a Betting Premises Licence in East Hampshire District Council

## APPENDIX B

### Categories of Gaming Machines

<b>Machine Category</b>	<b>Maximum Stake</b>	<b>Maximum Prize</b>
A	Unlimited	Unlimited
B1	£5	£10,000
B2	Maximum £100(in multiples of £10 per game)	£500
B3	£2	£500
B3A	£1	£500
B4	£2	£400
C	£1	£100
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	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 machine)	20p	£20 (of which no more than £10 may be a money prize)