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13 November 2006

To: All Members of the Council

Dear Councillor,

Full Council – Monday 13 November 2006.

I attach a copy of the following reports for the above-mentioned meeting which were not available at the time of collation of the agenda:

**13. TO RECEIVE REPORTS FROM THE FOLLOWING BODIES**

- a) The Executive – Report 8 - 2006/7

Yours sincerely

Ken Pryor  
Member Services

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Chair:  
 Councillor George Meehan

Deputy Chair:  
 Councillor Lorna Reith

## **INTRODUCTION**

- 1.1 The Council at its meeting on 6 February 2006 agreed, as part of its Treasury Management Strategy and Policy, prudential borrowing limits.
- 1.2 The Council has also reserved the power to approve policies, plans and strategies that are specified in the Council's Policy Framework. (Part F.6 of the Constitution – The Budget and Policy Framework Schedule).
- 1.3 The Council's Policy Framework means (i) the plans and strategies required to be approved at full Council under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) or (ii) those plans and strategies that the Council itself has determined shall be reserved to the full Council for approval.
- 1.4 This report covers two matters relating to the above-mentioned decisions which we considered at our meeting on 31 October 2006.

## **ITEMS FOR DECISION**

### **Finance**

#### **2. TREASURY MANAGEMENT AND CAPITAL PROGRAMME**

- 2.1 We considered a report which advised us that the Council's external treasury advisers, Sector, had recently alerted us to the opportunity to take up some long term borrowing at very advantageous rates (4.10%). The additional borrowing was part of approved plans of supported funding for next years capital programme and therefore fitted in with the Treasury Management Strategy approved by Council on 6 February 2006. We were advised that the Acting Director of Finance had delegated authority to approve treasury management decisions and that on 26 September 2006 had exercised that authority by taking out long term loans for £17 million to secure these advantageous rates. As this related to financing for the capital programme in 2007/08 it went above the operational boundary for borrowing in 2006/07 and required the Council to approve an increase in the limit for the current financial year. This additional early borrowing was still within the Council's authorised limit for 2006/07 and the revised limits now recommended were part of the prudential indicators included in the approved Treasury Management Strategy.
- 2.2 We also report that the aggregate capital projected position in 2006/07 was as shown in the following table. The Children's Service was currently working on a revision to the three year programme which would take account of slippage and other factors. We noted that a revised three year programme taking account of this would be reported to us in due course.

Capital	Approved Budget	Spend to date	Projected variation
	£m	£m	£m

Children and Young People	45.3	14.2	(0.6)
Social Services	7.4	0.8	(0.9)
Housing – General Fund	2.6	0.5	0
Housing – HRA	19.2	0.7	0
Environment	17.7	3.4	0
Finance	5.6	1.1	(0.6)
Chief Executive	14.5	2.2	0
<b>Total</b>	<b>112.3</b>	<b>22.9</b>	<b>(2.1)</b>

## WE RECOMMEND

That the increase in the external borrowing operational boundary for 2006/07 by £17 million be approved and it be noted that the overall authorised limit would remain as previously approved.

### Crime and Community Safety

#### 3. STATEMENT OF GAMBLING POLICY

- 3.1 We considered a report which advised us that the Gambling Act 2005 would come fully into force on 1 September 2007 and would make the Council (as the 'Licensing Authority') responsible for certain licensing functions in relation to gambling in the Borough. This would result in the Council's Licensing Committee becoming responsible for granting premises licences in the London Borough of Haringey. The function was previously undertaken by the Magistrates Court system.
- 3.2 The Act brought in significant changes to the way gambling premises were regulated and gave a definition of 'Gambling' as either gaming, betting or taking part in a lottery:
- Gaming meant playing a game of chance for a prize
  - Betting meant making or accepting a bet on the outcome of a race, competition, or any event; the likelihood of anything occurring or not occurring; or whether anything was true or not
  - A lottery was where persons were required to pay in order to take part in an arrangement, during the course of which one or more prizes were allocated by a process which relied wholly on chance.
- 3.3 The Statement of Gambling Policy set out the principles that the Licensing Authority proposed to apply in exercising its licensing functions under the Gambling Act. The Policy would last a maximum period of 3 years commencing on 31 January 2007 and could be reviewed and revised by the Licensing Authority at any time before the expiry of the three-year period.
- 3.4 The Gambling Act aimed to allow for more freedom for business operators and customers whilst ensuring that gambling was conducted within a framework that had been designed to promote the three key licensing objectives which were as follows:

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime or disorder;
- (b) ensuring that gambling was conducted in a fair and open way; and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.5 In general, apart from in relation to the licensing of tracks, the fairness and openness of gambling would primarily be matters for the Gambling Commission.

3.6 We noted that the Gambling Act 2005 gave licensing authorities a range of new powers to licence gambling premises in their communities. The Gambling Policy considered the needs of the Borough and was concerned with upholding the licensing objectives outlined above. It would guide the Licensing Authority in carrying out its various regulatory functions under the Act. These main functions were:

- To be responsible for the licensing of premises where gambling activities were to take place by issuing premises licences:
- To issue provisional statements in respect of such premises (pre-approval) ;
- To regulate members' clubs who wished to undertake certain gaming activities via issuing club gaming permits and /or club machine permits;
- To issue club machine permits to commercial clubs;
- To grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- To receive and issue permits from alcohol licensed premises (under the Licensing Act 2003) for the use of gaming machines, (over two machines goes to hearing automatically)
- To register small society lotteries below prescribed threshold. (where the total value of tickets in a single lottery was £20,000 or less and the aggregate value of the tickets in a calendar year was £250,000 or less)
- To Issue prize gaming permits
- To receive and endorse temporary use notices;
- To receive occasional use notices
- To provide information to the Gambling Commission regarding details of licences issued.
- To maintain registers of the permits and licences that were issued under these functions.
- To enforce the legislation in relation to premises, e.g. premises which intended to provide off-course betting, or bingo would require a premises licence.

3.7 The Policy which is attached at Appendix A is a substantial document and set out below is a brief summary of some of the key points.

- The principles that the Licensing Authority proposed to adopt would provide support for its aims of tackling crime and supporting the vulnerable in our community.

- The Licensing Authority would ensure, so far as is consistent with the Gambling Act and guidance, that the policy supported and did not conflict with strategies for local crime prevention and community safety.
  - The Licensing authority should not take into account irrelevant matters, i.e. those not related to gambling and the licensing objectives. (One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building approval for the proposal).
  - The Licensing Authority should aim to permit the use of premises for gambling in so far as it was satisfied that to do so would be: in accordance with the Gambling Act 2005 and any relevant code of practice or guidance issued by the Gambling Commission; and reasonably consistent with the licensing objectives and the Licensing Authority's Policy.
  - The Licensing Authority recognised that neither the need (commercial demand) for the premises to be licensed, nor people's moral objections to gambling were matters that could generally be taken into account by a licensing authority.
  - The Licensing Authority would consider each application on its merits.
  - The Licensing Authority would place information about licence applications on its web site and would notify Ward Councillors when applications were received.
  - The Licensing Authority had not resolved not to issue casino premises licences. If the Licensing Authority should in the future resolve not to issue casino premises licences, then the resolution should be published by being included in the Policy or any revisions to the Policy and as such should be subject to public consultation.
  - The Licensing Authority would not be involved in licensing remote gambling at all. This would fall to the Gambling Commission via operating licences. Spread betting was regulated by the Financial Services Authority. The National Lottery was regulated by the National Lottery Commission.
- 3.8 We were advised that the draft Statement of Licensing Policy had been developed in line with the legislation and guidance issued by the Government and Gambling Commission. It had undergone a statutory consultation process during the summer lasting eight weeks and comments received had been analysed and where possible such matters raised by the comments had been considered for incorporation into the draft policy. We were also advised that there would need to be additions to the terms of reference of the Licensing Committee and its Sub-Committees to give Members power to conduct hearings under the Gambling Act 2005. There should also be amendments to the scheme of delegation to officers in the Enforcement Service to confer power to deal with more routine administrative matters under the Act.

## **WE RECOMMEND**

That the Statement of Gambling Policy as set out in Appendix 'A' be adopted with effect from 15 January 2007 and published beforehand as legally required.

## **Appendix A**

# **DRAFT**

  

# **STATEMENT**

  

# **OF**

  

# **GAMBLING**

  

# **POLICY**

# LONDON BOROUGH OF HARINGEY

## Draft Statement of Gambling Policy

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## **DRAFT STATEMENT OF GAMBLING POLICY**

### **1. Introduction**

Haringey Council will become the Licensing Authority under the Gambling Act 2005. This will result in the Council becoming responsible for granting Premises Licences in the Borough of Haringey in respect of:-

- ❖ Casino Premises;
- ❖ Bingo Premises;
- ❖ Betting Premises, including Tracks;
- ❖ Adult Gaming Centres;
- ❖ Family Entertainment Centres.

The Gambling Act 2005 requires the Council to prepare and publish a "Statement of Licensing Policy" that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

This draft "Statement of Licensing Policy" has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. It is intended to be a discussion document leading to adoption by Haringey Council of a formal Statement of Licensing Policy, after having due regard to any responses from those consulted on this draft policy statement.

The formal Statement of Gambling Policy will be available on Haringey Council's website, and at one or more public libraries situated in the Borough and / or in other premises situated in the Borough [once published at the end of 2006].

The Policy will come into effect on 31 January 2007, and will be reviewed as necessary, and at least every three years from the date of adoption.

## 2. The London Borough of Haringey

Map of the London borough of Haringey



Haringey is one of London's 32 Boroughs. It is located in the north of the capital and is more than 11 square miles in area. According to the 2001 Census nearly half of its 224,300 people come from ethnic minority backgrounds. It is often said that Haringey is an outer London Borough with inner London challenges.

There are approximately 100,000 dwellings and approximately 8,200 businesses employing 64,700 people.

There are a number of Bingo Premises, Bettings Shops and Adult Gaming Centres

List of persons this authority consulted: A full list of consultees is available on the website, [www.haringey.gov.uk/licensing\\_](http://www.haringey.gov.uk/licensing_)

## 3. Glossary of Terms

Within this draft Statement of Gambling Policy, the following words and terms are defined as stated:

Licensing Objectives: As defined in section 4 below

Council: Haringey Council

Borough: The area of London administered by the London Borough of Haringey

Licences: As defined in section 5 below

Applications: Applications for licences and permits as defined in section 5 below

Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Haringey Council
Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"><li>1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Haringey Council”);</li><li>2. The Gambling Commission;</li><li>3. Metropolitan Police Constabulary</li><li>4. London Fire and Emergency Planning Authority</li><li>5. Building Control Manager, Assistant Director Planning , Haringey Council</li><li>6. Commercial and Environmental Protection Team, Haringey Council;</li><li>7. Policy &amp; Performance Manager, Children’s Services Officer in Social Services, Haringey Council;</li><li>8. HM Customs and Excise.</li></ol>
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-</p> <ol style="list-style-type: none"><li>(a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</li><li>(b) Has business interests that might be affected by the authorised activities;</li><li>(c) Represents persons who satisfy (a) or( b) above.</li></ol>

## **PART A**

### **4 Licensing Objectives**

The Gambling Act 2005 requires that the Council carries out its various licensing functions with a view to promoting the following three licensing objectives:-

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In exercising most of their functions under the Gambling Act 2005, Licensing Authorities must have regard to the licensing objectives.

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

This Licensing Authority is aware that, as per Section 153 of the Act, when making decisions about Premises Licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

1. in accordance with any relevant code of practice issued by the Gambling Commission;
2. in accordance with any relevant guidance issued by the Gambling Commission;
3. reasonably consistent with the licensing objectives and
4. in accordance with the authority's statement of gambling policy.

### **5 Types of Licence**

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

## 6 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Premises Licences
8. Club Gaming Permits;
9. Prize Gaming and Prize Gaming Permits;
10. Temporary Use Notices;
11. Registration of small society lotteries.

## 7 General Principles

Nothing in this Statement of Policy will:-

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. ***The applicant will demonstrate a right to occupy the premises and holds or has applied for an operating licence which allows him or her to carry out the proposed activity.*** Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

When determining an application to grant a Premises Licence or review a Premises Licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Licensing is about the control of licensed premises, temporary use notices or occasional use notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either "mandatory" or "default" conditions. In

determining an application the Council may not have regard to the expected demand for the facilities which it is proposed to provide. Moral objections are additionally not valid reasons for rejecting an application and will not be considered.

## 8 Responsible Authorities and the protection of children from harm

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

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

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at:

## 9 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

*"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-*

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- (b) has business interests that might be affected by the authorised activities, or*
- (c) represents persons who satisfy paragraph (a) or (b)"*

The licensing authority is required by regulations 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. The principles are:

- Each case will be decided upon its merits.
- This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for Local Authorities at 8.14 and 8.15. It will also consider the Gambling Commission's Guidance that 'has business interests' should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- The Gambling Commission has recommended that the Licensing Authority states that...'*interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for Local Authorities 8.17).*' This Authority will not however generally view these

bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for or has business interests that might be affected by the authorised activities..

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. For example, a letter from one of the persons so affected and , requesting the representation may be sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department.

## **10 Exchange of Information**

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority confirms that it has procedures in place so as to ensure that it can comply with the requirements of the Freedom of Information Act 2000. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available. Discussions with the Gambling Commission and LACORS as regards information exchange between the Commission and local authorities are, at the time of writing, at an early stage.

## **11 Declaration**

In producing this Policy, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted.



## 12 Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for Local Authorities, and Enforcement will endeavour to be:

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

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

This Licensing Authority will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. LACORS is working with the Gambling commission to produce a risk model for premises licences and this authority will consider that model once it is made available

The main enforcement and compliance role for this 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 operating and personal Licences. It is also worth noting that 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.

This Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request

to the licensing department. Our risk methodology will also be available upon request.

The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one of more of the Licensing Objectives, as specified in section 1.4 above, before the Council will be able to consider it.

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

### 13 Licensing Authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- 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 up to two 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 and Endorse ***Temporary Use Notices***
- 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

It should be noted that local Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

The Gambling Commission has recommended that Licensing Authorities include a list of licensable activities in their policy statements. LACORS has requested a definitive list from the Gambling Commission and this will be incorporated into this policy statement once provided.

## PART B

### PREMISES LICENCES

#### 1 General Principles

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. The Licensing Authority can only consider a premises licence application where the applicant ;

- Has the right to occupy and exercise sufficient control over the premises to enforce the terms of the licence: and
- Holds or has applied for an operating licence which allows him or her to carry out the proposed activity
- It should be noted that the premises licence may only be determined once the operating licence has been issued
- The Licensing Authority will expect the applicant for a premises licence to demonstrate that they have or have applied for the appropriate operating and /or personal licences from the Gambling Commission where relevant
- Where no application for an operating licence has been made, the premises licence application will be refused.
- Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

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

It is appreciated that as per the Gambling Commission's Guidance for Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for Premises Licences" and also that unmet demand is not a criterion for a Licensing Authority. The Licensing Authority recognises that in the event that it decides to resolve not to issue casino premises licences, then it may have regard to any principle or matter.

**Definition of "premises"** - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. 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 Gambling

Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This Licensing Authority takes particular note of the Gambling Commission's Guidance for Local Authorities which states that:

- 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.
- Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or

unlicensed). Clearly, there will be specific issues that Authorities should consider 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. But, in addition an overriding consideration should be 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.

It should also be noted that an applicant cannot obtain a full Premises Licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Thus a Licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the Authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

#### ***Who can make Applications***

An application for a Premises Licence can only be made by a person who either holds an Operating Licence authorising him to carry on the activity in respect of which a Premises Licence is sought, OR has made an application for an Operating Licence which has not yet been determined.

***Location*** - This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for Local Authorities, this 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 as regards 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, with the onus upon the applicant showing how potential concerns can be overcome.

***Duplication with other regulatory regimes*** - This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible,

including planning. This Authority will not consider whether a licence application is likely to be awarded Planning Permission or Building Regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

**Licensing objectives** - Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of Door Supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

In considering licence applications, the Council may, take into account the following:-

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the Licence is granted.

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

This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling

Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc. Access by children or young persons to those gambling premises which are adult only environments will not be permitted.

This Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards the licensing objective.

As regards the term "**vulnerable persons**" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs " This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

- 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; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to consider what if any conditions would promote the licensing objectives and to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively. Conditions attached to Premises Licences will, so far as possible, reflect local crime prevention strategies. For example, closed circuit television cameras may be appropriate in certain premises.

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

This Authority will consider how best to ensure and will take reasonable steps to ensure that where category C [See table below] or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

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

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

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

It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences which are:

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

### ***Categories of gaming machines***

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A,B,C and D, with category B to be further divided into sub-categories. The regulations will define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. The regulations may also define the classes according to the nature of the gambling for which the machine may be used and the premises where a machine may not be used. The table below sets out the current proposals, this is subject to change and this will be updated in due course.

<b>Category of machine</b>	<b>Maximum Stake</b>	<b>Maximum Prize</b>
A	Unlimited	Unlimited
B1	£2	£4.000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize



**Door Supervisors** – Casinos and Bingo premises have an exemption from the need to register door supervisors with the SIA, as required by the Private Security Industry Act 2001, by virtue of the Gambling Act 2005 Schedule 16 paragraph 17.

The Gambling Commission advises in its Guidance for Local Authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority (SIA).

For premises other than casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances / machines is appropriate for particular cases and consideration will be given as to whether door supervisors need to be SIA licensed or not. The Licensing Authority will not assume that they need to be.

## **2. Adult Gaming Centres**

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

This Licensing Authority will expect applicants to consider how best to promote the licensing objectives and offer their own measures to meet the licensing objectives. However appropriate measures/licence conditions may cover issues such as:

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

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

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

This Licensing Authority will expect applicants to consider how best to promote the licensing objectives and what measures they offer to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- 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.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

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

#### 4 **Casinos**

**Proposal for a casino** – There are currently no casinos operating within the Borough.

There is no resolution to prohibit casinos in the Borough at present. The Licensing Authority is aware it has the power to do so under Section 166 of the Gambling Act 2005. However the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

Should the Council choose to make such a resolution, this will be a resolution of Full Council

Where a no-casinos resolution has been made. potential licence applicants will be notified of such, and that applications for Casino Premises Licences will not be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

**Casinos and competitive bidding** - This Licensing Authority is aware that where a Licensing Authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the Local Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

**Licence considerations / conditions** - The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for Local Authorities - 17.30) This guidance will be considered by this Licensing Authority when it is made available.

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

## 5. Bingo premises

This Licensing Authority notes that the Gambling Commission's Guidance states:

'18.4 - It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted Licensing Authorities should ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where 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; and
- 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.

This Licensing Authority is also aware that the Gambling Commission is going to issue further guidance about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this Licensing Authority once it is made available.

## 6. Betting premises

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

## 7. Tracks

This Licensing Authority is aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will give due consideration to, the impact upon all the third licensing objectives. With regard to the third licensing objective, (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling), this Licensing Authority will consider the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

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

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

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

**Betting machines** - This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that Licensing Authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

**Condition on rules being displayed** - The Gambling Commission has advised in its Guidance for Local Authorities that "...Licensing Authorities should 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."

**Applications and plans** - This Licensing Authority awaits regulations setting-out any specific requirements for applications for Premises Licences but is in accordance

with the Gambling Commission's suggestion "To ensure that Licensing Authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "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."

This Licensing Authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate Premises Licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

#### **8. *Travelling Fairs***

It will fall to this Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

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

#### **9. *Provisional Statements***

This Licensing Authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence" and that "Requiring the building to be complete ensures that the Authority could, if necessary, inspect it fully".

In terms of representations about Premises Licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the Authority's opinion reflect a change in the operator's circumstances.

This Authority has noted the Gambling Commission's Guidance that "A Licensing Authority should not take into account irrelevant matters.... One example of an

irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

## PART C

### PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

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

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Local Authorities also states: "In their three year licensing policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., Licensing Authorities will want to give weight to child protection issues." (24.6)

Guidance also states: "...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application....Licensing Authorities might wish to consider asking applications to demonstrate:

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

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

**Statement of Principles** This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of

the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

**2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.



### 3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

The Gambling Act 2005 states that a Licensing Authority may “*prepare a statement of principles that they propose to apply in exercising their functions under this Schedule*” which “*may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit*”.

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

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

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

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

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

### 4. Club Gaming and Club Machines Permits

Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that 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."

The Commission Guidance also notes that "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;  
or
- (e) an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an Authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

## **5. Temporary Use Notices**

There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. 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", Licensing Authorities will need to look at, amongst other things, the ownership/occupation and control of the premises...This is a new permission and Licensing Authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

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

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This

Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **1. Transitional Arrangements**

During the transitional arrangements period specified in the Act, a Premises Licence will be issued to persons applying under an Order made by the Secretary of State under Schedule 18 of the Act, who have supplied the required information, documentation and fee. Issue of licences will be on the basis of existing permissions being continued. If however, the Police make a representation that the conversion of an existing licence would undermine the crime prevention and disorder objective, the licence will be referred to the Council's Licensing Sub-Committee for consideration.

## **2. Consultees**

The Statement of Licensing Policy will be subject to formal consultation with:-

1. The Chief Officer of the Metropolitan Police for Haringey;
2. Persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
3. Persons/bodies who appear to the authority to represent the interests of persons likely to be affected by the exercise of the authority's function under The Gambling Act 2005.

A full list of consultees can be provided on request from the Licensing Team

## **3 LEGISLATION, POLICIES AND STRATEGIES**

### **3.1 Legislation**

In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Race Relations Act 1976 (as amended);

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

### **3.2 Relationship with Planning Policies**

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

### **3.3 National Strategies**

The Council will also seek to discharge its responsibilities identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

### **3.4 Local Strategies and Policies**

Where appropriate, the Council will consider applications with reference to other adopted local strategies and policies, including the following:-

1. The Council's Community Strategy; 2003-2007
2. The Haringey Safer Communities Strategy: 2005-2008
3. Enforcement Policies.

## **4. Integrating Strategies**

There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

The Council considers that where appropriate and in so far as is consistent with the Gambling Act, Guidance and Codes of Practice issued under sections 24 and 25 of the Gambling Act 2005, it is desirable that this Policy complements other relevant plans and strategies aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:-

- ❖ Crime and Disorder Strategy – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- ❖ Safer Communities Strategy

The Community Safety Strategy is committed to tackling the key areas of crime and building prevention initiatives into neighbourhoods. The licensing authority will support the work of the Safer Communities Strategy within the scope of the licensing objectives under the Act

- ❖ Haringey Council – A Community Plan – As far as possible, any licensing decisions will be in line with the aspirations of this community plan.
- ❖ Local Transport Plan – the Council aims to work with the local transport authority and will consider ways in which the public can be dispersed from licensed premises and events so as to avoid disturbance, crime and disorder. The Police will be encouraged to report on matters related to the swift and safe dispersal of people from licensed premises.
- ❖ Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact on these issues of the Gambling Policy will be monitored and amendments will be made as necessary.
- ❖ Domestic Violence Strategy – The Council will ensure consultation to ensure that any correlation between gambling and domestic violence can be detected at the earliest opportunity.
- ❖ Alcohol Strategy – The Council will as far as possible have regard to this strategy and conditions attached to licences and certificates will reflect the key elements of this strategy.
- ❖ Children and Young Persons Strategy – The Council will have regard to the impact on this strategy and the criteria for safeguarding children from becoming addicted.
- ❖ Anti-Poverty Strategy – As far as possible, any licensing decisions will have regard to this strategy. The Licensing Authority and decisions made in respect of licensed premises will support the work of the Anti Poverty Strategy as it is developed, and where the matter is within the scope of the licensing objectives under the Act.
- ❖ Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:-
  - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private and family life;
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- ❖ Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to its Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- ❖ The Council will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.

- ❖ Economic Strategies – The Council will ensure that the Licensing Committee is appraised of the employment situation in the area and the need for new investment and employment where appropriate.
- ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the Enforcement Concordat, and the Haringey Enforcement Policy.

These links to other corporate strategies will be formulated in detail as a result of the consultation process.

## **5 DECISION MAKING**

### **5.1 Committee Terms of Reference**

A Licensing Sub-Committee of Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

The Licensing Committee will also sit to determine general licensing matters that have been delegated to it by the full Council that are not associated with the Gambling Act 2005.

Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

The Licensing Sub-Committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the

decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

## **5.2 Allocation of Decision Making Responsibilities**

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Council Officers.

The table shown at Appendix A sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

## **5.3 Licensing Reviews**

The Council will carry out a review of a Premises Licence where it has received a formal application for review in accordance with the Act that is relevant to one of more of the Licensing Objectives and is relevant to the matters listed below,

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

Representations may include issues relating to the following:-

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;

5. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

Due consideration will be given to all relevant representations unless they fit the following:-

- (a) The grounds are frivolous;
- (b) The grounds are vexatious;
- (c) The grounds are irrelevant;
- (d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- (d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- (e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- (f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered.

A premises licence may also be reviewed by the Licensing Authority of its own volition.



## **6. LOCAL STANDARDS**

### **6.1 Enforcement**

The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.

The Enforcement Concordat (available upon request) proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.

The Council will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with the Metropolitan Police and, Haringey Trading Standards Department and London Fire and Emergency Planning Authority on enforcement issues to ensure an efficient deployment of police and council officers.

## **7. COMPLAINTS AGAINST LICENSED PREMISES**

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

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 above.

## **8 FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Gambling Policy or the application process can be obtained from:-

***Licensing Unit  
Commercial and Environmental Protection Group  
Civic Centre  
High Road, Wood Green  
LONDON  
N22 8LE***

***Tel: 020 8489 5103 Fax: 020 8489 5528  
E-mail: licensing@haringey.gov.uk***

Information is also available from:-

***Gambling Commission  
Berkshire House  
168-173 High Holborn  
LONDON  
WC1V 7AA***

***Tel: 020 7306 6219  
Website: www.gamblingcommission.gov.uk***

## APPENDIX A

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			If the Council has any discretion under the Regs, the it will be for officers to propose and for Licensing Committee to approve.
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence			The initial grounds for review will be for officers to validate. Licensing Sub Committee will then hear the review if the grounds are valid under s.198
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits			Cancellation of club gaming /machine permits and other permits decisions would be appropriate for officers.
Applications for other permits			Dealt with by officers

Cancellation of licensed premises gaming machine permits			Dealt with by officers
Consideration of temporary use notice			Officers would initially object to applications that did not reach the required criteria
Decision to give a counter notice to a temporary use notice		X	Delegated to officers because of time constraints. In difficult cases the Chair of The Licensing Committee could be consulted.