

# 2009 Draft



## GAMBLING ACT 2005 SECTION 349

### STATEMENT OF PRINCIPLES

This Statement of Principles will remain in force from  
31<sup>st</sup> January ~~2010~~ until 31<sup>st</sup> January ~~2013~~

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**Deleted:** *This Statement of Principles has been drafted at a time when a number of regulations, Operating/Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these documents impact later upon the content of this document it will need to be considered and amended at a later stage as appropriate. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.*

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## 1.0 Licensing Objectives

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- 1.1 In exercising most of the functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 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.
- 1.3 This Licensing Authority is aware that in accordance with Section 153 of the Act, in making its decisions about premises licences and temporary use notices it should aim to permit the use of the premises for gambling in so far as it thinks it:
- (a) in accordance with any relevant code of practice under section 24,
  - (b) in accordance with any relevant guidance issued by the Commission under section 25,
  - (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
  - (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).
- 1.4 [For the avoidance of doubt, any reference in this statement of licensing principles to the Gambling Commission's Guidance or Codes of Practice are references to the current versions of those documents, as updated from time to time.](#)

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## 2.0 Introduction

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- 2.1 Southampton is the south coast's regional capital with a population of over 234,600 in an area of 50 square km. The dynamic and vibrant city is forward-looking, balancing steady growth as a prosperous commercial centre with a high quality of life for its citizens. Southampton has been voted one of the most pleasant places to work in the UK, and is the gateway to a wide range of world-class features from the Solent with its maritime opportunities to the new national park in the New Forest.
- 2.2 Southampton boasts the south's largest concentration of major companies and is home to some of the UK's biggest brands, from Ordnance Survey, Carnival, Skandia Life and HSBC, to Ford Transit. Commercially, Southampton's success is also notable. The West Quay shopping centre

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opened in 2000 and in the years since, Southampton has risen from 43<sup>rd</sup> place to 13th nationally in the table of shopping destinations. IKEA opened its first UK city centre store in 2009. Additionally, it is home to two universities, the University of Southampton and Southampton Solent University and has a student population exceeding 35,000.

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2.3 Southampton is the largest city in southeast England outside London, and is seeing expansion in important emerging sectors, including media and creative industries, business and financial services, marine engineering, tourism and defence applications. Southampton has a rich heritage, with a famous seafaring history as an important Roman and then Saxon port. The Old Town is surrounded by some of the best-preserved medieval walls in the country. Monuments commemorating links with Henry V, the Pilgrim Fathers and RMS Titanic can be found around the city.

2.4 Four-and-a-half million people live within an hour's drive, with over half a million within the "travel-to-work" area. Southampton's position in the centre of the south coast offers a wealth of advantages. Southampton is the region's cultural heart with a nationally renowned art gallery and first class venues for opera, theatre, music and cinema. Southampton is the south's principal media centre: the BBC and radio and regional newspapers are all based in the city region. There are plans for significant new performance, exhibition and studio space in the city's "arts quarter" which has been awarded an Arts Council grant of nearly £6 million. The Council also harbours long-standing plans for a multi-use entertainment, conference and ice venue in the centre of the city and significant improvement to the waterfront adjacent to Royal Pier and Mayflower Park.

The city and Port of Southampton is at the heart of the country's international cruise industry and enjoys a growing market with over 1 million cruise ship passengers passing through the port in 2009 on 300 ships.

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2.5 Southampton lies at the very centre of the south coast's communications network, providing excellent links to national and international destinations through Southampton International Airport and the Port of Southampton. The city maintains a strong international profile and has forged close commercial and cultural ties with European and Far Eastern centres.

2.6 In January 2010 gambling facilities in the city included three casinos, three bingo clubs, 34 betting offices, 18 amusement centres, one betting track, 435 premises and 47 clubs licensed for the supply of alcohol for consumption on the premises, the majority of which have gaming machines installed.

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2.7 A map of the Southampton area is attached as Appendix A. *[not attached for the Council report]*

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### 3.0 Consultation on the Statement of Principles

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3.1 Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles that they propose to apply when exercising their

functions. 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.

3.2 The Licensing Authority has consulted widely upon this statement before finalising and publishing it. A list of those persons consulted is provided at Appendix B. It should be noted that unsolicited comments may have been received from other persons but all of these have not been listed.

3.3 The Gambling Act requires that the following parties be 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 Southampton 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.

3.4 The full list of comments made and the consideration by the Council can be obtained from the Licensing Team, Legal & Democratic Services, Southampton City Council, Southbrook Rise, 4-8 Millbrook Road East, Southampton SO15 1YG

3.5 The policy was approved at a meeting of the Full Council on [\[date of council meeting\]](#) and was [subsequently](#) published via the Council's website ([www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)). Copies are placed in all the city's public libraries as well as being available from the Licensing Team at Southbrook Rise.

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3.6 The Licensing Authority will also consult the above and any other relevant persons as may be appropriate for any subsequent revision of the statement.

3.7 Any comments as regards this statement should be sent to:

The Licensing [Manager](#)  
Legal and Democratic Services  
Southampton City Council  
PO Box 1344  
Southampton  
SO15 1WQ  
Tel: 023 8083 3426 Fax: 023 8083 4061  
Email: [licensing.policy@southampton.gov.uk](mailto:licensing.policy@southampton.gov.uk)

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3.8 It should be noted that this Statement of Principles 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 as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

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#### 4.0 Declaration

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

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#### 5.0 Responsible authorities and interested parties

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- 5.1 When dealing with applications for and reviews of premises licences, the Licensing Authority are obliged to consider representations from two categories of persons, referred to as “responsible authorities” and “interested parties.” (It should be noted that these are defined differently to those defined in the Licensing Act 2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

- 5.2 “Responsible authorities” are public bodies that must be notified of applications by the applicant. 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 Public Protection Service;
- the Southampton Local Safeguarding Children Board;
- HM Revenue and Customs; and
- Any other person prescribed by the Secretary of State

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A full list and contact details of all the Responsible Authorities under the Act are contained on the Council’s web-site ([www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)).

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

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

- 5.4 In accordance with the suggestion in the Gambling Commission’s Guidance for Local Authorities, this authority has designated the Southampton Local

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Safeguarding Children Board as the body that is competent to advise the authority about the protection of children from harm.

- 5.5 “Interested parties” are persons who may make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as follows:

“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 application is made, the person -

- lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- has business interests that might be affected by the authorised activities; or
- represents persons in either of those two groups referred to above”.

- 5.6 Each case will be considered on 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.

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.

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- 5.7 The Gambling Commission has recommended that the Licensing Authority states that interested parties include trade associations, and trade unions, and residents and tenants’ associations (the Gambling Commission Guidance for Local Authorities). 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 Act, i.e. lives sufficiently close to the premises to be likely affected by the activities being applied for.

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- 5.8 Interested parties can be persons who are democratically elected such as local 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.

- 5.9 If interested parties 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 that particular licence application. If there are any doubts then please contact Democratic Services, Southampton City Council, Civic Centre, Southampton SO14 7LY.

- 5.10 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. A letter from one of these persons, requesting the representation is sufficient.

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## 6.0 Exchange of Information

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- 6.1 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.
- 6.2 The Licensing Authority will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. 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.

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## 7.0 Compliance and Enforcement

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- 7.1 Licensing Authorities are required by regulation under the Act 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.

- 7.2 This Licensing Authority's principles are that:

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

- **Proportionate:** 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.

- 7.3 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 7.4 The 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

**Deleted:** 6.3 . Should any protocols be established as regards information exchange with other bodies then they will be made available on the Council's web-site [www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing) ¶

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6.4 . Discussions with the Gambling Commission and Local Authorities Coordinators of Regulatory Services (LACORS) as regards information exchange between the Commission and Local Authorities are, at the time of writing, at an early stage.¶

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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 the 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.

- 7.5 The main enforcement and compliance role for the Licensing Authority will be to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences it issues. It should also be noted that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 7.6 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 7.7 Having regard to the principle of transparency, the Licensing Authority enforcement/compliance protocols/written agreements will be available on request to the Licensing Team. Our risk methodology will also be available on request.

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## 8.0 The Licensing Authority Functions

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### 8.1 The Licensing Authority will:

- 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) of 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 more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices

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- 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

8.2 The Licensing Authority will not be involved in licensing remote gambling. This will fall to the Gambling Commission via Operator Licences.

8.3 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 statement once provided.

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9.0 General Principles

9.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

9.2 The Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks [fit:jt:](#)

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- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
- (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

9.3 The Licensing Authority appreciates that in accordance with the Gambling Commission’s Guidance “moral objections to gambling are not a valid reason to reject applications for premises licences” (except as regards any “no casino” resolution – see section on Casinos below – paragraph 15 below) and also that unmet demand is not a criterion for the Licensing Authority.

**Definition of “premises”**

9.4 "Premises" is defined in the Act as “at 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.

9.5 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 discreet 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.

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## Part B - Premises Licences

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- 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.

### Location

- 9.6 The 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, 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

- 9.7 The Licensing Authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be granted planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions that are not able to be met by licensees due to planning restrictions, should such a situation arise.

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## 10.0 The Licensing Objectives

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- 10.1 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**

- 10.2 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

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## Part B - Premises Licences

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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.

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

- 10.3 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 section 18 below on Tracks .

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

- 10.4 This Licensing Authority has noted that the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.
- 10.5 The Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.
- 10.6 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.

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## **11.0 Conditions on premises licences**

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- 11.1 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; and

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- reasonable in all other respect

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

11.3 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 in order to pursue the licensing objectives.

These matters are in accordance with the Gambling Commission's Guidance.

11.4 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 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.

11.5 The 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 endure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

11.6 It is noted that there are conditions which the Licensing Authority cannot attach to premises licence which are:

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- 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 methods 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, winnings or prizes

### Door Supervisors

- 11.7 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 cannot be licensed by the Security Industry Authority (SIA). This Licensing Authority therefore will take into consideration relevant criminal convictions, cautions or formal reprimands, if any, and training requirements that meet SIA standards. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.
- 11.8 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is necessary for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

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### 12.0 Other Legislation

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- 12.1 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 and health & safety. It should be noted that 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.
- 12.2 So far as is possible, this statement of principles will avoid duplicating those other regulatory regimes.

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### 13.0 Adult Gaming Centres (AGC)

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- 13.1 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

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measures to ensure, for example, that persons under the age of 18 do not have access to the premises.

13.2 The 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 neither mandatory nor exhaustive and is merely indicative of reasonable measures which might be in place.

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#### 14.0 Licensed Family Entertainment Centres

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14.1 The Licensing Authority will specifically have regard to the need to protect children and 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.

14.2 The 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:

- 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

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

- 14.3 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 delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences when published.

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### 15.0 Casinos

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#### “No Casinos” resolution

- 15.1 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. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.
- 15.2 This resolution will be reviewed at three yearly intervals or sooner should the circumstances warrant a revision of the resolution. Any such decision will be made by Full Council.

#### Casinos and competitive bidding

- 15.4 The 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 operate 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

- 15.5 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

- 15.6 The Licensing Authority will, in accordance with 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.

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## 16.0 Bingo Premises

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16.1 The Licensing Authority has noted that if children are allowed to enter premises licensed for bingo that they must 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 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 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.

16.2 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.

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## 17.0 Betting Premises

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17.1 **Betting machines** – The Licensing Authority will, in accordance with 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.

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## 18.0 Tracks

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

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- 18.2 The 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. The Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.3 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. 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.
- 18.4 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

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

### Gaming machines

- 18.5 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. The Licensing Authority will consider the location of gaming machines at tracks, and 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 not prohibited from playing category D gaming machines on a track.

### Betting machines

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- 18.6 The Licensing Authority will 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

- 18.7 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

- 18.8 This Licensing Authority awaits regulations setting out any specific requirements for applications for premises licences but will have regard to the Gambling Commission's suggestion that 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.

This will 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")
  - in the case of dog tracks and horse racecourses 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."
- 18.9 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.

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## 19.0 Travelling Fairs

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- 19.1 It will fall to the Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made

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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.

- 19.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 19.3 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.

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### 20.0 Provisional Statements

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- 20.1 The 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”.
- 20.2 In terms of representations about premises licence applications, 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 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 stage; or
  - b) which, in the authority’s opinion, reflect a change in the operator’s circumstances.
- 20.3 The Licensing 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.”

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### 21.0 Reviews of premises licences

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- 21.1 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. This will be on the basis of whether the request for the review is relevant to the matters listed below, as

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well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the authority to wish alter/ revoke/ suspend the licence, or whether it is substantially the same as previous representations or requests for review:

- 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 Licensing Authority's statement of principles.

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

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## 22.0 Unlicensed Family Entertainment Centre Gaming Machine Permits

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- 22.1 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).
- 22.2 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 Gambling 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 for permits..., licensing authorities will want to give weight to child protection issues." (24.6)
- 22.3 The 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."
- 22.4 The Licensing Authority cannot attach conditions to this type of permit.
- 22.5 The 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 the following:
- 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.
- 22.6 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 shall disclose relevant convictions (those that are set out in Schedule 7 of the Act) in order that the Licensing Authority may consider whether it would be contrary to the licensing objectives to grant a permit; and
  - staff are trained to have a full understanding of the maximum stakes and prizes.

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**23.0 (Alcohol) Licensed premises gaming machine permits**

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- 23.1 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
- 23.2 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, and “such matters as they think relevant.”
- 23.3 The 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 being harmed 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 machines. Measures which will satisfy the 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; and
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 23.4 The Licensing Authority recognises 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.
- 23.5 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.

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- 23.6 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.

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#### 24.0 Prize Gaming Permits

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- 24.1 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.
- 24.2 The applicant should set out the types of gaming that he or she is intending to offer and 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
- 24.3 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.

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#### 25.0 Club Gaming and Club Machine Permits

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- 25.1 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).
- 25.2 Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the

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

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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.

- 25.3 The Licensing Authority 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
- 25.4 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 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."
- 25.5 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.

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### 26.0 Temporary Use Notices

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- 26.1 There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the Licensing Authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.
- 26.2 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

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“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.

- 26.3 This is a new permission and 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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### 27.0 Occasional Use Notices

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- 27.1 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. The Licensing Authority will need though to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

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## 28.0 Rights of Appeal and Judicial Review

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- 28.1 The Licensing Authority is aware that its decisions may be subject to an appeal in accordance with the provisions of the Act and judicial review. To ensure a transparent decision making process 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; and
  - 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.
- 28.2 An appeal may be commenced by the giving of a notice of appeal by the appellant to the local magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- 28.3 Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from a legal advisor who specialises in the law on gambling.

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## 29.0 Other Matters

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- 29.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, the information below will be available on the Council's website ([www.southampton.gov.uk/licensing](http://www.southampton.gov.uk/licensing)) or by contacting the Licensing Team:
- Register of premises licences issued by the Licensing Authority
  - Fees
  - Guidance on how to make an application
  - List of responsible authorities and contact details
  - Application forms, where appropriate
  - Making representations
  - Applying for a review of a licence

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Part D – Other Information  
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**30.0 The Licensing Authority Delegations**

Matter to be dealt with	Full Council	Sub-Cttee of Licensing Cttee	Officers
Three year licensing statement of principles	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

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Part D – Other Information

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Matter to be dealt with	Full Council	Sub-Cttee of Licensing Cttee	Officers
Decision to give a counter notice to a temporary use notice		X	
Decision to determine an application without holding a hearing on grounds contained within S.162 (3)			X
Decision to reject an application for review made under S.197 based on grounds contained within S.198			X
Take “action” (under S.202) following review		Where application heard by Sub Committee	Where no hearing and all parties agree in advance to relevant “action”.

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*This Statement of Principles has been drafted at a time when a number of regulations, Operating/Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these documents impact later upon the content of this document it will need to be considered and amended at a later stage as appropriate. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.*