



SOLIHULL METROPOLITAN BOROUGH COUNCIL

GAMBLING ACT 2005

STATEMENT OF LICENSING PRINCIPLES

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SOLIHULL METROPOLITAN BOROUGH COUNCIL

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

Preface

Under the Gambling Act 2005, (the Act), a new regime for regulating gambling and betting will be introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include the licensing of operators and individuals involved in providing gambling and betting facilities.

Solihull Metropolitan Borough Council has a duty under the Act, to licence premises where gambling takes place and to licence certain other activities, including the registration of small society lotteries.

The Gambling Act 2005 requires Licensing Authorities to publish a Statement of Principles, which they propose to apply when exercising their functions. The statement must be kept under review, amended if required and republished after consultation. The statement must in any case, be re-published every three years.

This document sets out how the Licensing Authority intends to approach their task.

It should be noted that this policy statement will not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence. Every matter will be considered on its merits and according to the statutory requirements of the Gambling Act 2005.

Introduction

Solihull is the largest metropolitan borough in the West Midlands, (by area) being located near to the geographical centre of the country, with a population of over 200,000.

The Borough is best described as a mixture of urban and rural areas which gives rise to its motto “Urbs in Rure” (Town in the Country) and the numerous parklands, trees, fields and other open spaces, cannot be lost on residents or visitors to the borough.

The location of Solihull allows it to enjoy exceptional national and international connectivity, thanks to its high quality transport infrastructure. Within the borough is Birmingham International Airport with its many links to national and international destinations, whilst the West Coast main railway line, running through Birmingham International Railway Station, which is also in the borough, provides easy access to London and other major UK cities. The M5, M6, M40 and M42 motorways, are within easy reach of Solihull, and offer rapid access to the national motorway network.

Solihull is home to over 4000 businesses, many of which are nationally and internationally recognised names, from the engineering and motor industry, to high-class retail outlets and cutting edge technology companies.

Solihull has a growing retail and leisure sector with over 16 million people visiting the shopping centres and leisure complexes annually. There are many hotels, pubs, clubs and restaurants in the borough that enhance and support the enjoyment of residents and visitors to the borough.

SOLIHULL METROPOLITAN BOROUGH COUNCIL



Declaration

In producing this Statement of Principles, the 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 on the statement.

The Licensing Authority has also had regard to the following relevant provisions of the European Convention on Human Rights:

- Article 8 – that everyone has the right to respect for his home and private life.
- Article 1 of the First Protocol – that every person is entitled to the peaceful enjoyment of his possessions. (*This refers not only to what would normally be thought of as a possession, but also includes a licence.*)

Regard has also been had to the provision in the Human Rights Act 1998, which makes it unlawful for a public authority to act in a way that will be incompatible with a convention right. Consequently an aim of this policy in relation to the decision making process of the Licensing Authority, is to ensure that all decisions made, are compatible with convention rights.

The Licensing Authority has also taken into account the provisions of the Crime and Disorder Act 1998, which requires Local Authorities to have regard to the likely effect of the exercise of their function on crime and disorder in their area and to do all they can do to prevent such crime and disorder.

Part A

The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities 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 and disorder, being associated with crime and disorder or being used to support crime.**
- **Ensuring that gambling is conducted in a fair and open way**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

It should be noted that the Gambling Commission has stated that, *'The requirement in respect of children, is explicitly to protect them from being harmed or exploited by gambling'*.

This Statement of Principles is intended to meet the obligations imposed on the Licensing Authority by the Act and as such, the Authority is aware, that in making decisions about premises licences and temporary use notices, it will generally aim to permit the use of premises for gambling, in so far as it thinks it is: -

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives
- in accordance with this Statement of Principles

Authorised activities

"Gambling" is defined in the Act as gaming, betting or taking part in a lottery:

- "gaming," means playing a game of chance for a prize.
- "betting," means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true.
- a "lottery" is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process that relies wholly on chance.

Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.

Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions.

Types of Licences and Permissions

Under the Act, the Gambling Commission is responsible for issuing premises licences and personal licences.

The Council in its capacity as a 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 less gaming machines.
- grant 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.
- Provide information to the Gambling Commission regarding details of licences issued (see section on Information exchange).
- Maintain registers of the permits and licences that are issued under these functions.
- Exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued guidance under section 25 of the Gambling Act 2005, about the manner in which licensing authorities exercise their licensing functions under the Act and in particular, the principles to be applied.

The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Website: www.gamblingcommission.gov.uk

e-mail: info@gamblingcommission.gov.uk

Consultation

The Gambling Act 2005, requires Licensing Authorities to consult with the following parties:-

- The Chief Officer of Police.
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authorities 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 Authorities functions under the Gambling Act 2005.

Should you have any comments in regard to this Statement of Principles, please send them by e-mail or letter, to the following contact.

Mr. Gavin Morrice,
Licensing Manager,
PO Box 1833
Council House,
Solihull,
B91 3DZ
e-mail – licensing@solihull.gov.uk

Responsible Authorities

The licensing authority is required by regulation 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:

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

Accordingly this authority designates the Area Child Protection Committee of Solihull Metropolitan Borough Council for this purpose.

The contact details of all the responsible authorities under the Gambling Act 2005 are available via the Council's website at www.solihull.gov.uk and these include: -

- the Licensing Authority (Solihull Metropolitan Borough Council)
- the Gambling Commission
- the Police
- the Fire Service
- the local Planning Authority
- Environment Protection
- the local Safeguarding Children Board
- HM Revenue and Customs

INTERESTED PARTIES

Interested Parties can make representations about licence applications, or apply for a review of an existing licence. An interested party is someone who:

- lives sufficiently close to the premises and 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 category above.

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party and in accordance with the Commission's Guidance, when such matters are considered, the principle to be applied are: -

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the potential impact of the premises

- the circumstances of the person(s) making the representation

In determining whether a person has a business interest that could be affected, the licensing authority will take into account, among other things:

- The size of the premises
- The “catchment” area of the premises
- Whether the person making the representation has business interests in the catchment area that may be affected.

Each case will be decided on its merits and this authority will not apply a rigid rule to its decision making process.

Interested Parties can include trade associations and residents / tenants associations, providing that they can show they represent someone who would be classed as an Interested Party in their own right. Councillors and MPs may also be Interested Parties. Elected Councillors may represent interested parties, providing they do not also sit on the Licensing Sub Committee determining the application in question.

The Licensing Authority may receive representations, which it considers to be frivolous or vexatious. A vexatious representation is generally one that is repetitive, without foundation, or made for some other reason, such as malice. A frivolous representation is generally one that is without substance, lacking in seriousness, unrelated to the licensing objectives, the guidance issued by the Gambling Commission, or this Statement of Principles. Decisions on whether representations are frivolous or vexatious will generally be a matter of fact, given the circumstances of the representation. In deciding whether or not a representation is frivolous or vexatious the licensing authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant.
- whether the representation raises a genuine issue or not.
- whether the representation is specific to the premises that are subject to the application.

Any such decision will be made objectively and not on the basis of any political judgement. Where a representation is rejected the person making the representation will be given a written explanation, clearly setting out the reasons behind the rejection.

In the absence of any regulations to the contrary, or any statutory forms, representations should be ideally be made: -

- in writing (includes electronic communications)
- In black ink on single sides of A4 paper

- indicate the name and address of the person or organisation making the representation
- indicate the premises to which the representation relates
- indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this.
- clearly set out the reasons for making the representation.

EXCHANGE OF INFORMATION

Licensing authorities are required to include in their Statement of Policy, the principles to be applied by the authority in exercising its functions in accordance with:

- Sections 29 and 30 of the Act in respect of the exchange of information between it and the Gambling Commission; and
- Section 350 of the Act in 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 will apply, is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information. This includes the provision that the Data Protection Act 1998 will not be contravened. This licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

Details of applications and representations which are referred to the Licensing Authority for determination, will be published and made publicly available, in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of individuals making representations will be disclosed to applicants and only withheld on the grounds of personal safety, where the Licensing Authority is asked to do so.

Enforcement

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 offences specified.

The principles to be applied are that this Licensing Authority will be guided by the Gambling Commission's Guidance for local authorities and endeavour to be:-

- proportionate - only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised.

- accountable - with decisions being justifiable and subject to public scrutiny
- consistent - rules and standards will be consistent and implemented fairly
- transparent and open - licence conditions will be kept simple
- targeted - regulation will be focused on the problem and minimise side effects

This Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. It will also adopt a risk-based inspection programme to premises, based on the licensing objectives

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 Licence and other permissions that it authorises. The Gambling Commission will be the enforcement body for Operator 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.

Licensing Authority Functions

Licensing Authorities are required under the Act to:-

- be responsible for the licensing of premises where gambling activity takes place, by issuing *Premises Licences*;
- issue *Provisional Statements*;
- regulate *Members Clubs* and *Miners Welfare Institutes*, who wish to undertake certain gaming activities, via the issuing of Club Gaming Permits and / or Club Machine Permits;
- issue *Club Machine Permits* to *commercial clubs*;
- grant permits for gambling and gaming machines in clubs;
- grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*;
- receive notification from alcohol licensed premises – (under the Licensing Act 2003), for the use of two or less 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 societies lotteries, below the 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;
- 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; this duty will fall to the Gambling Commission.

Part B – Premises Licences

General Statement of Principles

The Licensing Authority recognises the wide variety of premises that will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its functions the Licensing Authority will have regard to any guidance issued by the Gambling Commission from time to time.

The Licensing Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Licensing Authority will establish a close working relationship with the police, the Gambling Commission and where appropriate, any other responsible authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Licensing Authority may take whatever steps are considered necessary to limit access generally. They may alternatively introduce appropriate measures to prevent under-age gambling, where it believes it is right to do so for the prevention of physical, moral or psychological harm to those at risk, especially where representations to that effect are received.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own, in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that all applications and the circumstances prevailing at each premises, will be considered on their own merits. When applying these principles the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case.

Preventing gambling from being a source of crime and disorder

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures, which aim to prevent criminals from providing facilities for gambling.

Anyone applying to the Licensing Authority for a premises licence will first need to obtain an Operating Licence issued by the Gambling Commission. Therefore, the Council will not generally be concerned with the suitability of an applicant, but where concerns about a person's suitability do arise, the Licensing Authority will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received, in relation to premises which are in an area noted for particular problems with organised crime, the Licensing Authority will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied, to prevent those premises from being a source of crime.

Measures already exist within anti-social behaviour and licensing legislation, to prevent nuisance, whether it arises as a result of noise from premises, or from general disturbance, once people have left the premises. The Licensing Authority does not therefore intend to use the Act to deal with general nuisance issues, parking problems, or matters such as litter, which can be dealt with by using other powers.

Issues of disorder should only be dealt with under the Act, if the disorder amounts to activities that are more serious and disruptive than mere nuisance and it can be shown that gambling was the source of that disorder. A factor which could be taken into account is, how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected, or have business interests that might be affected.

When making decisions in this regard the Licensing Authority will give due weight to any comments made by the Police.

Ensuring gambling is conducted in a fair and open way

The Gambling Commission does not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for management of the gambling business, or will relate to the suitability and actions of an individual. The Commission, through the operating and personal licensing regime, will address both issues.

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

Protecting children and other vulnerable persons from harm

Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are “adult-only” environments.

In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling, especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children, or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice regarding access to casino premises for children and young persons.

When considering whether to grant a premises licence or permit, the Licensing Authority will consider whether any measures are necessary to protect children. An example of this might be the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs and betting tracks, etc.

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

Children (those under 16 years of age) and young persons (16 – 17 years of age) may take part in private and non-commercial betting and gaming. However, the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be

on premises where gambling is taking place. An adult is defined as a person aged 18 or over. In summary:

- Betting shops cannot admit anyone under 18
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines – (see Appendix 3)
- Adult entertainment centres cannot admit those under 18
- Family entertainment centres and premises with an alcohol premises licence (such as pubs) can admit under 18s, but they may not play category C machines which are restricted to those over 18 – (see Appendix 3)
- Clubs with a Club Premises Certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines – (see Appendix 3)
- Tracks will be required to have policies to ensure that those under 18 years of age do not participate in gambling, other than on category D machines (see Appendix 3)

The Licensing Authority will always treat each case on its own merits and when considering whether specific measures are required to protect children and other vulnerable people, will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

Premises licences

Premises are defined in the Act as ‘any place’ and it is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises. It will always be a question of fact in the circumstances. It is not considered that areas of a building that are artificially or temporarily separated can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission’s Guidance for licensing authorities, which states that in considering applications for multiple licences for a building, or those for a specific part of the building to be licensed, “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”.

Where the Licensing Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.

Other than an application for a betting premises licence in respect of a track, the Licensing Authority is unable to issue a premises licence, unless the applicant holds the relevant operating licence from the Gambling Commission.

Location

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. The 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 policy statement will be amended. 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 to show how the concerns can be overcome.

Responsible Authorities

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Licensing Authority, if they are relevant to the licensing objectives.

Any concerns expressed by any Responsible Authority in relation to their own functions cannot be taken into account, unless they are relevant to the application itself and the licensing objectives. In this regard, the Licensing Authority will not generally take into account representations that are deemed irrelevant, such as:

- There are too many gambling premises in the locality (*because need for gambling facilities cannot be taken into account*).
- The premises are likely to be a fire risk (*because public safety is not a licensing objective and can be dealt with under existing legislation*).
- The location of the premises is likely to lead to traffic congestion (*traffic matters do not fall within the licensing objectives*).
- The premises will cause crowds to congregate in one area causing noise and nuisance (*such matters can be dealt with under existing legislation*).

It should be noted that unlike the Licensing Act 2003, the Gambling Act 2005 does not include as a specific licensing objective, 'the prevention of public nuisance'. Any nuisance associated with gambling premises should be tackled under other relevant legislation. However, every representation made, will always be considered on its own merits.

Details of applications and representations which are referred to the Licensing Authority for determination, will be detailed in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will normally be disclosed to applicants and / or their representatives and only withheld from publication on the grounds of personal safety, where the Licensing Authority is asked to do so.

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 about 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 door supervisors, appropriate signage for adult only areas etc. This licensing authority will normally expect the applicant to offer his / her own suggestions, as to ways in which the licensing objectives can be met effectively.

The licensing authority will also consider specific measures, which may be required for buildings, which are subject to multiple premises licenses. 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. Such matters are in accordance with the Gambling Commission's Guidance.

It is noted that the licensing authority cannot attach certain conditions to a premises license and these 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.

Door Supervisors

The Gambling Commission advises, 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 however, that casino and bingo premises are exempt from the requirement to have door supervisors licensed by the Security Industry Authority. This licensing authority may have specific requirements for door supervisors working at casino or bingo premises, which are shown to be appropriate to individual premises. This is in recognition of the nature of the work in terms of searching individuals, or dealing with potentially aggressive persons.

For premises, other than casinos and bingo premises, operators and licensing authorities may decide that the supervision of entrances / machines is appropriate in 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.

Adult Gaming Centres

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures in place to do so. For example, by having in place a system, which ensures that those under 18 years of age, do not have access to the premises. Applicants will be expected to offer their own measures to meet the licensing objectives and appropriate measures / licence conditions may cover such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- notices and signage
- specific opening hours
- information leaflets / numbers for organisations such as GamCare

This list is neither mandatory, nor exhaustive and is merely indicative of example measures.

(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, that there will be sufficient measures to do so. For example, by having in place a system, which ensures that those under 18 years of age, do not have access to the adult only gaming machine areas.

Applicants will be expected to offer their own measures to meet the licensing objectives and appropriate measures / licence conditions may cover issues such as:

- Supervision of entrances and/or machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- 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 neither mandatory, nor exhaustive and is merely indicative of example measures.

This Licensing Authority will, in accordance with the Gambling Commission's guidance, refer to the Commission's website from time to time, to view any conditions that apply to Operating Licences, covering the way in which the area containing category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions required on these premises licences.

Casinos

Solihull Metropolitan Borough Council, 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 Council decide in the future to pass such a resolution, this Statement of Principles will be amended, showing details of that resolution.

Bingo Premises

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence, which must be obtained from the Gambling Commission.

- commercial bingo halls require a bingo premises licence from the Licensing Authority
- the holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- amusement arcades providing prize bingo will require a prize gaming permit from the Licensing authority.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type, the Licensing Authority will take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo licensed premises. Where category C or above machines are available in premises to which children and young persons are admitted, the licensing authority will seek to ensure that: -

- all such machines are located in an area of the premises 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 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 less than 18 years of age.

Members' Clubs and Commercial Clubs

Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000 and require the Commission to be notified as soon as is reasonably practicable, if that limit is breached. Stakes or prizes above that limit will require a Bingo Operators Licence and the corresponding Personal and Premises Licence.

Betting Premises

Anyone wishing to operate a betting office will require a betting premises licence from the Licensing Authority. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines, albeit the Licensing Authority has the power to restrict the number of betting machines, their nature and the circumstances in which that are made available.

It will not generally exercise this power, unless there are good reasons to do so, taking into account among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned. However, every representation made, will always be considered on its own merits.

Tracks

Only one Premises Licence can be issued in respect of any particular premises at any time, unless the premises are a 'track'. A track is a site where races or other sporting events take place.

Track Operators are not required to hold an Operators Licence granted by the Gambling Commission, therefore Premises Licences for tracks, issued by the Licensing Authority are likely to contain requirements for Premises Licence holders, about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, in ensuring that betting areas are properly administered and managed.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines

This list is not mandatory or exhaustive and is merely indicative of example measures.

Although there will primarily be a betting premises licence for a track and there may be a number of subsidiary licences, authorising other gambling activities to take place, unlike betting offices, a Betting Premises Licence in respect of a track, does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of gaming machines at a track, the Licensing Authority will consider the circumstances of each individual application and amongst other things will consider, the potential space for the number of machines requested, the ability of track staff to monitor those machines, especially if they are scattered around the site and the ability of the track operator to prevent children and young persons and vulnerable people from betting on the machines.

Betting machines at tracks

Licensing authorities have a power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

In addition to the comments above at betting machines in betting premises, similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of track operator to comply with the law and prevent children betting on the machines. The licensing authority may consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks, to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibility of the track operator and the off-course betting operator running a self contained unit on the premises.

Condition on rules being displayed

In line with guidance from the Gambling Commission, the Council will attach a condition to track premises licences, requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, and / or that other measures are taken to ensure that they are made available to the public, such as being printed in the race-card or made available in leaflet form from the track office.

Travelling Fairs

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

Reviews

Interested parties or responsible authorities can make requests for a review of a premises licence, 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; however, due consideration will be given to all representations, unless:

- they are frivolous, vexatious or irrelevant;
- the grounds would not cause this Authority to, revoke or suspend a licence, or to remove, amend or attach a condition on a premises licence or;
- the grounds are substantially the same as previous representations or requests for review or;
- it is in accordance with any relevant code of practice issued by the Gambling Commission;
- it is in accordance with any relevant guidance issued by the Gambling Commission;
- it is reasonably consistent with the licensing objectives; and
- it is in accordance with this statement of policy.

Where a valid application for a premises licence to be reviewed has been received, the Licensing Authority may arrange a conciliation meeting between parties involved, 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 representations, or for any licence holder to decline to participate in a conciliation meeting.

The licensing authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

Part C – Permits/Temporary & Occasional Use Notice

Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for a Family entertainment Centre Gaming Machine Permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Act 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. In preparing that 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.

A Family entertainment Centre Gaming Machine Permit cannot be granted unless the Chief Officer of Police has been consulted. No conditions may be imposed upon the grant of such permit and therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting such a permit. Unlicensed Family entertainment Centres will not be subject to scrutiny by the Gambling Commission.

Statement of Principles

Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include background checks on staff, training for staff in dealing with unsupervised young children that may be on the premises, or children causing perceived problems on or around the premises.

Applicants will be expected to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family entertainments,
- that the applicant has no relevant convictions (as set out in Schedule 7 of the Act),
- that the staff are trained to have a full understanding of the maximum stakes and prizes; and
- an awareness of local school holiday times and how to contact the local education office should truants be identified.

Compliance with the Code of Practice for Family entertainment Centres, issued by British Amusement Catering Trade Association, (BACTA), may be taken by the Licensing Authority as evidence, that (apart from the criteria relating to criminal convictions), the applicant has met the requirements.

Applicants must submit with their application, two copies of plans of the premises, to a scale of 1:100, (or as otherwise agreed with the Licensing Authority), showing the exits / entrances to the premises, location of gaming machines and the location of safety equipment such as fire extinguishers.

The licensing authority may refuse an application for renewal of a permit, only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

(Alcohol) Licensed premises gaming machine permits

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two 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, under section 284 of the Act, if: -

- provision of the machines is not reasonable 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 not been provided to the licensing authority, that a fee has not been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been complied with),
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

Should it be necessary to issue a section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order and consider any representation that might be made. The authority will hold a hearing if requested by the licensee.

If a premises wishes to have more than 2 machines, an application for a permit, must be made to the Licensing Authority, who will consider the application in line with the licensing objectives, any Gambling Commission guidance and "*such matters as they think relevant*".

Statement of Principles

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 harm, 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 adults-only gaming machines. The authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Measures that may satisfy the authority that there will be no access, may include the adult machines being in site of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / help line numbers for organisations such as GamCare.

A plan must accompany applications indicating where and what types of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the premises licence issued under the Licensing Act 2003.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and dealt with as an adult entertainment centre premises licence.

It should be noted that the licensing authority could 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.

Prize Gaming Permits

The Act 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”.

Prize Gaming may be provided in Bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres, may offer equal chance prize gaming, under a gaming machine permit. Prize gaming without a permit, may be provided by travelling fairs, providing that none of the gambling facilities amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

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

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 the regulations; and
- that the gaming offered is within the law.

It should be noted that there are conditions in the Gambling Act 2005, which the permit holder must comply with but that the licensing authority cannot attach additional 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.

Applications may only be made by people who occupy or plan to occupy the premises, are over 18 years of age (if and individual) and no premises licence, or club gaming permit under the Act is in force.

Statement of Principles:

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 harm, 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 unequal chance prize gaming.

A plan must accompany applications, indicating where and what type of prize gaming is to be provided.

Club Gaming and Club Machines Permits

Bona Fide 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:

- 3 gaming machines of categories B, C or D,
- equal chance gaming
- games of chance as set out in regulations.

A Club Gaming machine permit will enable the premises to provide:

- 3 gaming machines of categories B, C or D.

The Gambling Commissions Guidance states, "Members Clubs must have at least 25 members and be established and conducted 'wholly or mainly', for purposes other than

gaming, unless 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 Gambling Commission Guidance also states that licensing authorities may only refuse an application on the grounds that:

- 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;
- the applicant's premises are used wholly or mainly by children and / or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Gambling Commission or the Police.

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.

Clubs that hold a Club Premises Certificate under the Licensing Act 2003, are entitled to benefit from a fast track application procedure.

Temporary Use Notices (TUNs)

There are a number of statutory time limits restricting the use of premises for gambling under the authority of a Temporary Use Notice.

It is for the Licensing Authority to decide what constitutes a 'set of premises' and this will be a question of fact in the particular circumstances of each notice that is given. In making its decision, the Licensing Authority will consider, amongst other things, the ownership, occupation and control of the premises.

Occasional Use Notices (OUN)

An Occasional Use Notice may be used where there is betting on a track for 8 days or less in a calendar year and dispenses with the need for a Betting Premises Licence to be in force on that track.

The Licensing Authority has very little discretion as regards these notices, apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will however, need to consider the definition of track and whether the applicant is permitted to avail himself of the notice.

LOTTERIES

All lotteries are unlawful, unless they are run in accordance with an operating licence issued by the Gambling Commission, or are considered to be an 'exempt' lottery as defined by the Act.

One of those exceptions is in respect of "small societies lotteries", which are non-commercial, have been established and are conducted:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain

The Council will maintain a register of small societies lotteries.

Decision Making Responsibilities

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

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate			X (to be approved by Executive Councillor)
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation licence		Where representations have been received and not withdrawn	Where no representations received or 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		X	
Application for club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Glossary of Terms

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

Licensing Objectives	As defined by the Gambling Act 2005
Licensing Authority	Solihull Metropolitan Borough Council
Area Map	The area of Solihull Metropolitan Borough Council
Licence	Means a specific type of authority to carry out a function under the Gambling Act 2005
Applications	Means an application for an authority to carry out a specific function under the Gambling Act 2005
Notifications	Means notification of temporary and occasional use notices
The 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 the Licensing Authority.

Appendix 2

Responsible Authority	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ul style="list-style-type: none"> • The Licensing Authority • The Gambling Commission • The Police • The Fire Service • The local Planning Authority • Environmental Health • Child Protection Committee • HM Revenue and Customs
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"> a) Lives sufficiently close to the premises to be likely to be affected by authorised activities b) Has business interests that might be affected by the authorised activities c) Represents persons who satisfy a) or b) above
Casinos	A commercial gaming club whereby people are given an opportunity to participate in one or more casino games. Casino games are defined as a game of chance, which is not equal chance gaming.
Bingo Premise	A commercial club which promotes equal chance gaming in the form of cash or prize bingo
Betting Premises	Currently known as a Betting Office
Tracks	Tracks are sites that include horse racecourses and dog tracks
Adult Gaming Centres	Commercial premises offering a variety of games and gaming machines. Category B, C and D gaming machines available
Family Entertainment Centres	A centre with a wide variety of rides and games including amusement machines and skill games. Typically found at the seaside. Licensed family entertainment centres provide category C and D machines, unlicensed family entertainment centres provide category D machines only and are regulated through FEC gaming machine permits
Club Gaming Permits	Members clubs (not commercial clubs) permits which authorise the establishment to provide gaming machines, equal chance gaming & games of chance
Prize Gaming Permits	A permit issued to authorise the provision of facilities for gaming with prizes
Temporary Use Notices	These allow the use of a premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling
Registration of Small Society Lotteries	A small society lottery is a lottery promoted on behalf of a non-commercial society and is registered by the Licensing Authority
Gaming Machine	A game of chance machine which requires coins or tokens to activate

CATEGORIES OF CASINO

TYPE OF CASINO	REQUIREMENTS	CURRENT NUMBER OF NEW LICENCES AUTHORISED
Regional	Minimum customer area of 5000M/2. Casino games, bingo and betting and up to 1250 gaming machines	1
Large	Minimum customer area 1500M/2. Casino games, bingo and betting and up to 150 gaming machines	8
Small	Minimum customer area of 750M/2. Casino games and betting and up to 80 gaming machines	8

CATEGORIES OF GAMING MACHINE

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non monetary prize	£5 or £8 when non monetary prize