



# Gambling Act 2005

Statement of Principles

March 2016 – March 2019

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## 1. Introduction

- 1.1 Gosport Borough Council is the Licensing Authority for the Borough. The Authority will regulate gambling with integrity in the public interest.
- 1.2 We are committed to avoiding duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this statement of principles, which are already legal requirements under other legislation such as health and safety and fire precautions.
- 1.3 This statement of principles has been developed after having regard to the statutory guidance from the Gambling Commission and having given appropriate weight to the views of persons and organisations consulted.
- 1.4 Section 349 of the Act requires the Licensing Authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.
- 1.5 This statement of Principles will be applied during the 3-year period from March 2016 until March 2019 and during that time will be kept under review and revised when and if appropriate, during that 3-year period.
- 1.6 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 1.7 In exercising our functions under the Gambling Act 2005, Gosport Borough Council as a licensing authority will have regard to the statutory licensing objectives, which are;
  1. **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
  2. **Ensuring that gambling is conducted in a fair and open way**
  3. **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**
- 1.8 It should be noted that that the Gambling Commission has stated, "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling ".

1.9 The Authority is aware that Section 153 of the Act requires it, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think fit;

- 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 (subject to the above) and
- In accordance with this Statement of Principles (subject to the above).

1.10 Nothing in this statement of principles will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.

1.11 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under this legislation, unmet demand is not a criterion for a Licensing Authority in considering an application.

1.12 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences".

1.13 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objection to gambling in general.

## **2. Profile of Gosport**

2.1 Gosport is situated in the County of Hampshire and has an estimated population of 82,600, making it one of the smallest but most densely populated Council areas in the County. It is also smallest in size (2500 hectares) situated on a peninsular forming the western side of Portsmouth Harbour.

2.2 The population profile is illustrated below:

**Population age profile**

<b>Age Group</b>	<b>2011 Census</b>
All Ages	82,622
0-4	5,425
5-9	4,725
10-14	4,936
15-19	5,110
20-24	4,979
25-29	5,405
30-34	4,954
35-39	5,430
40-44	5,942
45-49	6,147
50-54	5,688
55-59	4,603
60-64	5,172
65-69	3,948
70-74	3,255
75-79	2,858
80-84	2,054
85-89	1,327
90+	664

Source: **Office for National Statistics**

- 2.3 The Borough has changed in recent years, with the contraction of military establishments and accommodation and the development of the waterfront areas and industry in the Borough.
- 2.4 The town centre of Gosport provides the commercial centre whilst there is another significant local commercial centre situated at Lee on the Solent.
- 2.5 The health of the people in Gosport is varied compared to the England Average and deprivation lower than average (Public Health England Health Profile 2014). Life expectancy for women is lower than the England average. Excess weight and smoking are the two health risks of concern.
- 2.6 The majority of Gambling authorisations in place are for betting shops and the number of these in the Borough has remained fairly constant in recent years, currently there are 9 in the Borough. These are mainly located within defined commercial centres.

### **3. The Statement of Licensing Principles and Consultation**

- 3.1 Gosport Borough Council is required by the Gambling Act 2005 to publish a Statement of the Principles, which we propose to apply when exercising our functions. This statement must be published every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 3.2 This statement of principles has been published following extensive consultation. A list of the persons we have sent this to is attached at Appendix A.
- 3.3 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
  - The Chief Officer of Police
  - One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority’s area
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 3.4 Our consultation will took place during December 2015 and we have followed the Guidance to Licensing Authorities (GLA) on consultations available at  
  
<http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx>.
- 3.5 The full schedule of comments and amendments consequential to these comments is available by request to the Licensing Officer, Gosport Borough Council.
- 3.6 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.

### **4 Declaration**

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

## **5. Responsible Authorities**

5.1 Gosport Borough Council is required by regulations to state the principles that we will apply in exercising our 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.

5.2 The principles we will use 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 etc.

5.3 In accordance with the Gambling Commission's Guidance for Licensing Authorities, we intend to designate the Hampshire County Council Child Protection Committee, Hampshire County Council for this purpose.

5.4 This body has countywide responsibility, is subject to democratic accountability and is currently the body that has become a responsible authority under the Licensing Act 2003.

5.5 The Responsible Authorities under the Gambling Act 2005 are:

- Gosport Borough Council Licensing Authority
- The Gambling Commission;
- The Chief Constable, Hampshire Constabulary
- Hampshire Fire and Rescue Service
- Gosport Borough Council Planning and Environmental Services Unit
- Hampshire Child Protection Committee, Hampshire County Council Social Services Section
- H.M. Revenue & Customs

5.6 Subject to any other person being prescribed in Regulations made by the Secretary of State. The contact addresses for these authorities are attached at Appendix 2.

## **6. Interested Parties**

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

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)”
- 6.2 We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 6.3 Our principles will be that we will adopt the principles of natural justice and decide each case on its merits. We will not apply a rigid rule to our decision making but will apply local knowledge and integrity to each decision.
- 6.4 The Licensing Authority takes note of the Gambling Commission’s Guidance that interested parties may include trade associations, trade unions, residents’ and tenants’ associations, and that the types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices.
- 6.5 The licensing authority will not however generally view membership bodies as interested parties unless they have a member who can be classed as an interested person under the provisions of the Act.
- 6.6 Interested parties under Paragraph 6.1 (c) above can be persons who are democratically elected such as a ward Councillor, M.P. Etc. No specific evidence of being asked to represent an interested party will be required as long as the Councillor / M.P. Etc. represents the ward likely to be affected. Other than this, we will require any other person acting under Paragraph 6.1 (c) above to be nominated in writing by the appropriate interested parties at Paragraph 6.1 (a) or (b) above.
- 6.7 When considering whether persons are interested parties in relation to any individual application we will consider:
- the size of the premises;
  - the nature of the premises;
  - the distance of the premises from the location of the person making the representation;
  - the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
  - the nature of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for us to



conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults

- persons with business interests that could be affected

6.8 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Board dealing with the licence application. Those making representations should contact the Head of Environmental Health, Gosport Borough Council in the first instance rather than approach their Councillor directly.

## **7. Exchange of Information**

7.1 We are required to include 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 ourselves and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

7.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.

7.3 We will also have regard to the Guidance issued by the Gambling Commission to Licensing Authorities, as well as any future relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7.4 Should any protocol on information exchange be established in the future, such protocols will be publicly available.

## **8. Enforcement**

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

8.2 This licensing authority’s principles are that we will be guided by the Gambling Commission’s Guidance for Local Authorities and our policy will endeavour to be:

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

8.3 This licensing authority will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based approach. Generally given the profile of the local area this will be a light touch approach, however the Authority will investigate any complaints or issues brought to its notice as necessary given the circumstances in each case.

8.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions that it authorises.

8.5 The Gambling Commission will be the enforcement body for Operator and Personal Licences. 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 for investigation.

8.6 This licensing authority will also keep itself informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

8.7 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest criteria referred to in the Code for Crown Prosecutors issued in accordance with the Prosecution of Offences Act 1985.

8.8 Any such prosecution will be commenced and conducted by the Head of Environmental Health in accordance with the powers delegated to him by the Council.

## 9. Licensing Authority Functions

9.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer 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 7 above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

9.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation of such activity will be the responsibility of the Gambling Commission via Operator Licences.

9.3 In accordance with the Act and Guidance, this authority will:

- Refer the decision whether to make a resolution not to issue casino licences within the Borough to full Council.
- Refer approval of this three-year licensing policy to Full Council.
- Refer the power to set fees to the appropriate decision making body as directed by the Borough Solicitor.
- Delegate all decisions relating to premises licences to the licensing Board.

- Invite the Licensing Board to further delegate decision making to a Sub-Board or officers in accordance with the law and guidance.

## **PART B**

### **10 Premises Licences**

- 10.1 Premises Licences are subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State.
- 10.2 We, as the licensing authority, will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 10.3 This licensing authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- 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 (subject to the above) and
  - in accordance with this statement of licensing policy (subject to the above).
- 10.4 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, “moral or ethical objections to gambling are not a valid reason to reject applications for premises licences “.Nor is unmet demand a criterion for a Licensing Authority.
- 10.5 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.
- 10.6 We will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.

- 10.7 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 10.8 This licensing authority takes particular note of the Gambling Commission's Guidance for Local Authorities which states that:
- Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
  - This Licensing Authority also notes that there are different rules regarding access to licensed premises through other premises (which themselves may be licensed or unlicensed).
  - The Licensing Authority will pay particular attention to whether the proposed access is lawful and also whether it poses any risk to the licensing objectives, and in particular regarding access of children to gambling premises.
- 10.9 Where an application is made for premises licence which have not yet been constructed, the Licensing Authority will consider the application in two stages. First, we will decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application we will consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place..
- 10.10 This licensing authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can be considered.
- 10.11 We will, in accordance with the Gambling Commission's Guidance for local authorities, 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.

- 10.12 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, as a result of this consultation or otherwise, regarding such areas where gambling premises should not be located, this policy statement will be updated.
- 10.13 It should be noted that any such future policy will not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how any potential concerns can be overcome.
- 10.14 This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including the statutory planning regime.
- 10.15 This Council acting as a licensing authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of an application for a Premises Licence.
- 10.16 We will though, carefully consider any concerns about licensing conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 10.17 The Planning Department is a responsible authority under this Act and have the opportunity to make representations should they desire, otherwise the two regimes will be properly separated.
- 10.18 This authority will however 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.
- 10.19 Premises licences granted must be reasonably consistent with the licensing objectives. In promoting these objectives, we have considered the Gambling Commission's Guidance to local authorities and make the following observations:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- 10.20 The Gambling Commission's guidance envisages that the licensing authority should pay attention to the proposed location of gambling premises in terms of this licensing objective.

- 10.21 Therefore, where an area has known high levels of organised crime, we 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. Responsible authorities would however have the right to make representations with regard to such premises.
- 10.22 We are aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. It should be noted that nuisance is not a Gambling Act licensing objective.
- 10.23 In considering licence applications, the Council will particularly take into account the following:
- The design and layout of the premises;
  - The training given to staff in crime prevention measures appropriate to those premises;
  - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
  - Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
  - The likelihood of any violence, public order or policing problem if the licence is granted.

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

- 10.24 This licensing authority is aware 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 by the operator and personal licensing system. It is acknowledged that there is a greater role for the Licensing Authority in track gambling which is explained in Section 16 below.

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

- 10.25 We note the Gambling Commission Guidance to Local Authority's states that this objective relates to 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.
- 10.26 We will therefore consider, as suggested by the Gambling Commission's Guidance, whether specific measures are required at individual premises to promote the licensing objectives.

- 10.27 Appropriate measures may include supervision of access points, segregation of areas etc.
- 10.28 We will also take account of the Codes of Practice regarding this objective in relation to specific types of premises.
- 10.29 In reference to the term “vulnerable persons” we note that the Gambling Commission or statute law is not seeking to offer a definition but the Commission states that “it will for regulatory purposes assume that this group includes:
- people who gamble more than they want to;
  - people who gambling 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.”
- 10.30 This licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

#### **Conditions on Premises Licences**

- 10.31 Any conditions we attach 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.
- 10.32 The authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises, the authority may consider attaching individual conditions related to the licensing objectives
- 10.33 There are specific observations made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to way in which the licensing objectives can be met effectively.



- 10.34 We will, where considered necessary, also consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises to promote the licensing objectives, in accordance with Gambling Commission Guidance.
- 10.35 We will also ensure that where Category A to C gaming machines are on offer in premises to which children are admitted, other than premises licensed for the supply of alcohol under the Licensing Act 2003;
- 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 these 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 years of age.
- 10.36 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 10.37 We are aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.
- 10.38 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter
- 10.39 It is noted that there are conditions which the licensing authority cannot by law attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition
  - conditions relating to gaming machine categories, numbers, or method of operation;

- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
  - conditions in relation to stakes, fees, winning or prizes
- 10.40 The Gambling Commission advises in its Guidance 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.
- 10.41 Door supervisors at bingo premises who are contract staff are required to be licensed by the Security Industry Authority; however, in house supervisors are exempt from this requirement.
- 10.42 This licensing authority therefore has specific requirements for door supervisors working at bingo premises which are that a book is maintained in which is recorded;
- the identity of the door staff deployed
  - the time they commenced duty and left duty, and
  - any incidents that they dealt with each day, and such a book shall be maintained and available for inspection for a period of 3 months from the date of the record entry.

## **11 Adult Gaming Centres**

- 11.1 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 ensure that persons under 18 years of age do not have access to the premises.

## **12 (Licensed) Family Entertainment Centres**

- 12.1 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 12.2 We will expect applicants as part of their application to initially offer their own measures to promote 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 support organisations such as GamCare
- Measures / training for staff on how to deal with suspected truant school children on the premises

12.3 We will, in accordance with the Gambling Commission's guidance, refer to the Commission, and be aware of any conditions that apply to operating licences covering the way in which the area containing the Category C or higher machines, should be delineated.

### **13 Bingo Premises**

13.1 This licensing authority notes that that the Gambling Commission Guidance states; "For bingo and FEC premises, it is a mandatory condition that under-18s should not have access to areas where category B and C gaming machines are located and this is achieved through further mandatory conditions that require the area to be:

- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose
- supervised at all times to ensure that under-18s do not enter the area, and supervised by either:
  - one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
  - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas
  - arranged in a way that ensures that all parts of the area can be observed.

A notice must be displayed in a prominent place at the entrance to the area stating that no person under the age of 18 is permitted to enter the area."

13.2 We note that under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when

facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.

- 13.3 We will consider restrictions that apply to such premises in the Gambling Commission codes of practice.

## **14 Betting Premises**

14.1 We note that the Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which require licensing. This Section of our policy discusses off-course betting, that is betting that takes place other than at a track in what is currently known as a licensed betting office. Tracks are discussed in the following Section. It should be noted that there are also betting offices on tracks, that have a separate premises licence from the track licence.

14.2 It is noted that the Gambling Commission's Guidance for local authorities states "Section 181 contains an express power for licensing authorities 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.

14.3 We will, in accordance with the Gambling Commission guidance, when considering whether to impose a condition to restrict the number of betting machines in particular premises, amongst other things, 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 vulnerable persons."

14.4 This licensing authority will give sympathetic consideration to re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public

## **15 Tracks**

15.1 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.

- 15.2 There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of a track.
- 15.3 Special rules apply to applicants for a premises licence in relation to a track. Most importantly, as noted above, the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence.  
This track premises licences then authorises anyone upon the premises with an operating licence to offer betting facilities.
- 15.4 We are aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission guidance, this authority will especially consider the impact of the third licensing objective.
- 15.5 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 15.6 We will expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities.
- 15.7 Children and young persons will by law 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.
- 15.8 Appropriate licence conditions may include:
- Proof of age schemes
  - CCTV
  - Door supervisors
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage

- Specific opening hours
- The location of gaming machines
- Self barring Schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

### **Gaming Machines on Tracks**

- 15.9 We still await further guidance from the Gambling Commission addressing where such machines may be located on tracks and any special considerations that should apply to promote for example, the third licensing objective.
- 15.10 We note the Commission's guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use the entitlement to 4 gaming machines, these machines will be located in areas from which children are excluded. Children and young persons will not however be excluded from playing Category D gaming machines on a track.

### **Betting machines**

- 15.11 Licensing authorities have a power under the Gambling Act 2005, 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.
- 15.12 The Gambling Commission's Guidance will be noted in that it states: "When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, should take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people".
- 15.13 Similar considerations may 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 the track operator to comply with the law and prevent children betting on the machine.

### **Condition on Rules Being Displayed**

- 15.14 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."

## **16. Travelling Fairs**

- 16.1 We note that we as the licensing authority are required to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 16.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 16.3 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 other departments of the Council and its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **17. Provisional Statements**

- 17.1 This licensing authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".
- 17.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

17.3 This authority has noted the Gambling Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

## **18. Reviews**

18.1 A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the licensing authority to review a particular licence.

18.2 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted, but the review itself, if necessary will be heard by elected members.

18.3 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.

18.4 An application for a review may be (but need not be) rejected if the licensing authority thinks that the grounds on which the review is sought:

- a) are not relevant to the principles that must be applied by the licensing authority in accordance with section 153. If the application raises issues that are not relevant to the Commission guidance/codes of practice, this policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling in so far we think that permission is in accordance with the matters set out in that section. Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;
- b) the grounds are frivolous;



- c) the grounds are vexatious;
- d) the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- e) are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
- f) are substantially the same as representations made at the time the application for a premises licence was considered. In these circumstances we will take into account the period of time that has passed since the representations were made, but the underlying requirement is that we should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

## **PART C**

### **19 Unlicensed Family Entertainment Centre Gaming Machine Permits**

- 19.1 Family entertainment centres (FECs) will perhaps be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons.
- 19.2 Unlicensed FECs will be able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.
- 19.3 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 as required by Section 238.
- 19.4 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed FEC and, if the applicant is an individual, he must be aged 18 or over. Applications for a permit cannot be made if a premises licence is in effect for the same premises.

- 19.5 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 19.6 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues."
- 19.7 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....Licensing authorities might wish to consider asking applications to demonstrate: a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 19.8 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 19.9 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 19.10 The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises

## **20. (Alcohol) Licensed Premises Gaming Machine Permits**

- 20.1 There is provision in the Act for premises licensed under the Licensing Act 2003 for the sale of alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. Licence holders merely need to notify the licensing authority.
- 20.2 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.
- 20.3 If a premises licence holder wishes to have more than 2 machines, then they need 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 under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 20.4 This licensing authority considers that “such matters” will be decided on a case by case individual basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult-only gaming machines.
- 20.5 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 20.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with, as an Adult Gaming Centre premises licence.

- 20.7 It should be noted that we as 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 to a permit.
- 20.8 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.

## **21. Prize Gaming Permits**

- 21.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 21.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- a) that they understand the limits to stakes and prizes that are set out in Regulations;
  - b) and that the gaming offered is within the law.
- 21.3 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.
- 21.4 It should be noted that there are conditions in the Gambling Act 2005 with 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.

## **22. Club Gaming and Club Machines Permits**

- 22.1 Bona Fide Members Clubs and miners' welfare institutes may apply for a Club Gaming Permit and such clubs and institutes and commercial clubs may apply for a Club Gaming machine permit.
- 22.2 The Club Gaming Permit will enable the premises to provide 3 gaming machines of categories B, C or D, equal chance gaming and games of chance as set-out in regulations still to be published.
- 22.3 A Club Gaming machine permit will enable the premises to provide 3 gaming machines of categories B, C or D.
- 22.4 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968.
- 22.5 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."
- 22.6 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
  - b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - d) a permit held by the applicant has been cancelled in the previous ten years; or
  - e) an objection has been lodged by the Commission or the police.
- 22.7 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

- 22.8 The Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 22.9 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.

### **23. Temporary Use Notices**

- 23.1 Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.
- 23.2 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted. 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.
- 23.3 We will apply the Gambling Commission Guidance which states: "In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, the licensing authority will need to consider whether different units are in fact different "sets of premises", given that they may be occupied and controlled by different people.

**24. Occasional Use Notices:**

We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will, however, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **APPENDIX 1**

### **SCHEDULE OF CONSULTEES TO THIS POLICY STATEMENT**

- All Elected Councillors, Gosport Borough Council
- Head of Development Management, Gosport Borough Council
- Legal Section Gosport Borough Council
- The Head of Environmental Health, Gosport Borough Council
- The Gambling Commission Headquarters Policy Section
- The Gambling Commission Regional Inspector (Hampshire)
- The Chief Constable, Hampshire Police
- Hampshire Fire and Rescue Service Authority
- Head of Child Protection, Hampshire County Council
- H.M. Revenue & Customs
- Neighbouring Authorities
- The National Casino Industry Forum.
- Casino Operators' Association of the UK
- Business In Sport & Leisure
- Racecourse Association Limited
- British Amusement Catering Trade Association
- British Holiday & Home Parks Association
- Community Trade Union
- Association of British Bookmakers
- All persons who hold Betting Office and Bookmakers Permits in Gosport Borough
- Representatives of persons who hold Society Lottery Registrations in Gosport Borough
- Clubs and Institute Union
- Gaming Machine Suppliers who regularly apply for Gaming Permits in Gosport Borough
- Society of Independent Brewers
- Representatives of Premises Licence Holders in Gosport
- Representatives of Club Premises Certificate holders in Gosport
- Hampshire County Council Trading Standards
- GamCare
- Responsibility in Gambling Trust
- Gam – Anon
- Residents Associations and Tenant Groups.
- Philip Kolvin QC
- General advertisement on the Council's website.



## **APPENDIX 2**

### **SCHEDULE OF RESPONSIBLE AUTHORITIES GAMBLING ACT 2005**

#### **Hampshire Constabulary**

Chief Officer of Police  
Town Hall  
Gosport  
Tel: 0845 045 45 45 (central number)

#### **Hampshire Fire & Rescue Service**

Service Delivery (Community Safety Delivery)  
Protection Department  
Southsea Fire Station  
Somers Road  
Southsea  
PO5 4LU

Tel: 023 92855180  
Email: : [Csprotection.admin@hantsfire.gov.uk](mailto:Csprotection.admin@hantsfire.gov.uk)

Fax: 023 92885175  
Website: [www.hantsfire.gov.uk](http://www.hantsfire.gov.uk)

#### **Pollution & Environmental Protection Team**

Pollution & Environmental Protection Team  
Gosport Borough Council  
Town Hall  
High Street  
Gosport  
Tel: 02392584242  
Email: [licensing@fareham.gov.uk](mailto:licensing@fareham.gov.uk)

Website: [www.gosport.gov.uk](http://www.gosport.gov.uk)

#### **Health & Safety Team**

Health & Safety Team  
Gosport Borough Council  
Town Hall  
High Street  
Gosport  
Tel: 02392584242  
Email: [health@fareham.gov.uk](mailto:health@fareham.gov.uk)

Website: [www.gosport.gov.uk](http://www.gosport.gov.uk)

Planning Authority  
Department of Strategic Planning and Environment  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100  
Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

Fax:01329 821500

The Local Weights and Measures Authority  
Head of Safety & Standards  
The Trading Standards Service  
Montgomery House  
Monarch Way  
Winchester  
SO22 5PW

Tel 01962 833620  
liquor.licensing@hants.gov.uk

Email:

Website: [www.hants.gov.uk](http://www.hants.gov.uk)

Safeguarding Unit Children's' Services  
HCC CSD Safeguarding Unit  
Falcon House  
Monarch Way  
Winchester  
SO22 5PL

Tel: 01962 876222  
child.protection@hants.gov.uk

Email:

Website: [www.hants.gov.uk](http://www.hants.gov.uk)

The Licensing Team  
Fareham Borough Council  
Civic Offices  
Civic Way  
Fareham  
PO16 7AZ

Tel: 01329 236100  
Email: [licensing@fareham.gov.uk](mailto:licensing@fareham.gov.uk)

Fax:01329 821755  
Website: [www.fareham.gov.uk](http://www.fareham.gov.uk)

Public Health Licensing Manager  
Public Health Department  
1st Floor, Room 153  
Elizabeth II Court, South  
Hampshire County Council  
Winchester  
SO23 8TG

Tel: 01329 236100

Use Fax no. 01962 847644 and  
address fax exactly as follows  
(including email address):

Email: [publichealth.licensing@hants.gov.uk](mailto:publichealth.licensing@hants.gov.uk)