

Agenda



Listening Learning Leading

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Date: 29 October 2024

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A MEETING OF THE

Licensing Acts Committee

WILL BE HELD ON THURSDAY 21 NOVEMBER 2024 AT 6.00 PM

MEETING ROOM 1, ABBEY HOUSE, ABBEY CLOSE, ABINGDON, OX14 3JE

You can watch this meeting via the council's [YouTube channel](#).

Members of the Committee:

Jo Robb (Chair)

Pieter-Paul Barker

Peter Dragonetti

Mike Giles

Ali Gordon-Creed

Kellie Hinton

Sam James-Lawrie

Katharine Keats-Rohan

Axel Macdonald

Zia Mohammed

Anne-Marie Simpson

Vacancy

Alternative formats of this publication are available on request. These include large print, Braille, audio, email and easy read. For this or any other special requirements (such as access facilities) please contact the officer named on this agenda. Please give as much notice as possible before the meeting.

Nick Bennett
Head of Legal and Democratic

1 Chair's announcements

To receive any announcements from the chair and general housekeeping matters.

2 Apologies for absence

To record apologies for absence.

3 Minutes (Pages 3 - 4)

To adopt and sign as a correct record the Licensing Acts Committee minutes of the meeting held on 23 May 2024.

4 Declarations of interest

To receive any declarations of disclosable pecuniary interests and any conflicts of interest in respect of items on the agenda for this meeting.

5 Urgent business

To receive notification of any matters which the chair determines should be considered as urgent business and the special circumstances which have made the matters urgent.

6 Public participation

To receive any questions or statements from members of the public that have registered to speak.

7 Review of Joint Gambling Policy (Pages 5 - 37)

To consider the report of the Head of Communities.



Minutes

of a meeting of the

Licensing Acts

Committee

held on Thursday, 23 May 2024 at
6.05 pm in Meeting Room 1, Abbey
House, Abbey Close, Abingdon,
OX14 3JE

Open to the public, including the press

Present in the meeting room:

Councillors: Ben Manning (Vice-Chair in the Chair), Katharine Keats-Rohan and Anne-Marie Simpson

Officers: Darius Zarazel (Democratic Services Officer)

1 Chair's announcements

The chair welcomed everyone to the meeting, outlined the procedure to be followed and advised on emergency evacuation arrangements.

2 Apologies for absence

Apologies for absence were received from Councillors Jo Robb, Axel Macdonald, Ali Gordon-Creed, Peter Dragonetti, and Kellie Hinton.

3 Minutes

RESOLVED: to approve the minutes of the meeting held on 18 May 2023 as a correct record and agree that the Chair sign these as such.

4 Declaration of interest

There were no declarations of interest.

5 Urgent business

There was no urgent business.

6 Public participation

There were no registered speakers.

7 Appointment of licensing panels

The committee considered a proposal to appoint licensing sub-committees, agreed to be referred to as licensing panels, to consider matters under the Licensing Act 2003 and Gambling Act 2005.

RESOLVED: to

1. appoint licensing sub-committees comprising any three members of the Licensing Acts Committee;
2. appoint each member of the Licensing Acts Committee to serve on any subcommittee which is convened so as to include them in its membership, subject to them having attended appropriate training in the last 12 months;
3. agree that the sub-committees be known as licensing panels;
4. authorise each licensing panel to discharge all functions under the Licensing Act 2003 and Gambling Act 2005 including determining and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters;
5. agree that wherever possible applications should be heard by a licensing panel comprising the chair or vice-chair of the committee plus two other members of the committee, but that this should not affect the principle that any three members of the committee will constitute a properly appointed licensing panel;
6. authorise the head of legal and democratic to invite an appropriate licensing panel to conduct a scheduled hearing having regard to members' availability and eligibility to take part and ensuring that as far as possible all members of the committee have the opportunity to conduct hearings.

The meeting closed at 6.06 pm

Licensing Acts Committee



Report of Head of Communities

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To: Licensing Acts Committee

DATE: 21 November 2024

Review of Joint Gambling Policy

Recommendations

- (a) The committee is recommended to consider the outcome of the consultation and recommend Council to:
- i) adopt the proposed Joint Gambling Policy
 - ii) authorise the Head of Communities to make minor editorial changes to the Joint Gambling Policy.
 - iii) authorise the Head of Communities to publish the Joint Gambling Policy in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.
- (b) The committee is asked to consider whether to recommend Council adopt a ‘no casino’ resolution under section 166 (1) of the Gambling Act 2005, meaning that any application for a casino would not be considered.

Implications (further detail within the report)	Financial	Legal	Climate and Ecological	Equality and diversity
	No	Yes	No	No
Signing off officer	James Ticehurst	Sarah Commins	Jessie Fieth	Lorne Grove

Purpose of Report

1. To consider the Joint Gambling Policy following the statutory consultation and make the required recommendations to Council.

Strategic Objectives

2. The relevant strategic objectives are ‘Openness and accountability’ and ‘Improved Economic and Community Wellbeing’. The policy will also ensure the council is meeting its statutory responsibilities.

Background

3. The council’s current Joint Statement of Gambling Policy came into effect from 31 January 2022. The policy is subject to statutory review every three years so is due for review by 31 January 2025.
4. Current numbers of issued licences, permits and registrations are as follows, with figures from 2021 for comparison.

Type	2021	2024
Betting premises	7	6
Gaming machines in clubs and pubs (permits for 3+ machines and notifications of up to 2 machines)	69	72
Bingo	1	1
Adult gaming centre (amusement arcade)	2	2
Small society lotteries	111	135

5. Officers are not aware of any concerns in respect of how the policy has operated in the last three years. All licensed betting, bingo and adult gaming centres are all inspected at least once a year, with high levels of compliance and no formal enforcement action (for example prosecutions or reviews) since the Act came into force. Numbers of inspections and enforcement actions are reported annually to the Gambling Commission, the body responsible for most gambling activity, including licensing of operators, personal licences and online gambling.

Proposed policy

6. The proposed new policy is attached at **Appendix A**. The policy has been updated to change the dates and correct minor and typographical errors. There have been no relevant legislative changes or issues over the last three years which would indicate that the council should make more substantial changes.

Consultation results

7. The consultation ran from 2 to 31 August. It was a public consultation, and in addition was sent to:
 - All the responsible authorities as defined in the Gambling Act 2005
 - All councillors, including Town and Parish Councils

- Licence holders
 - Trade bodies, associations and representatives
 - Gamcare, Gamble Aware and Gamblers Anonymous (UK)
 - Trading Standards
 - Public Health
 - Community organisations such as the Samaritans and Citizens Advice
8. One organisation, Gamcare, submitted a blank response to the consultation. No other responses or comments were received.

Gambling policy adoption process

9. It is the role of the committee to recommend to Council to adopt the gambling policy. This committee is asked to recommend to Council to adopt the policy and authorise the Head of Communities to make minor editorial changes and to publish the policy as required by the regulations.

'No casino' resolution

10. As part of its statement of gambling policy, licensing authorities are entitled to pass a 'no casino resolution' or to state that it would welcome a casino if the opportunity to bid for a premises licence were to become available.
11. It is the role of this committee to recommend to Council whether there should be a 'no casino' resolution. If introduced, this would mean that the council could not consider any applications for casino premises licences.
12. Any application to open a casino would first require an amendment of The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 by the Secretary of State. At present there are 53 licensing authorities that were designated in 1969 as 'permitted areas' entitled to have a casino (including Reading). In addition, 15 licensing authority areas were selected following open competition to issue new large and small casino premises licences under the Gambling Act 2005.
13. The council currently has a 'no casino' resolution which has been included at paragraph 6.27 of the draft policy.
14. If the committee recommend the 'no casino' clause then it must recommend the adoption of such a resolution under Section 166 (1) of the Gambling Act 2005 by Council.

Implementation

15. Once the Council has adopted a new gambling policy it must publish a notice of intention to adopt the new policy four weeks before the new policy comes into force.
16. The policy will next be due for review by 31 January 2028.

Financial Implications

17. There are no anticipated financial implications arising from the adoption of the proposed policy. The council has set fees for gambling authorisations which seek to recover the costs of the process including compliance checks.

Legal Implications

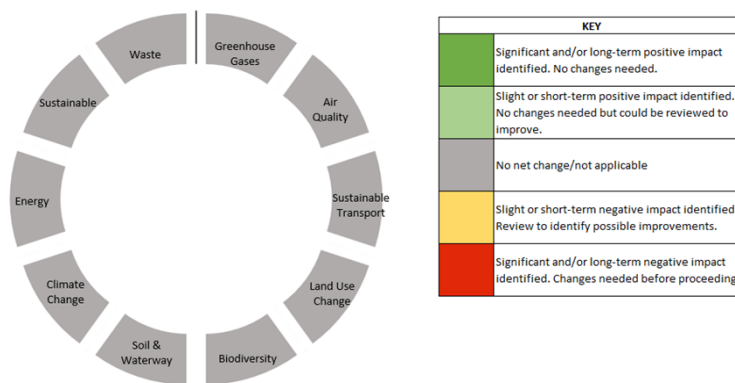
18. Section 349 (1) of the Gambling Act 2005 requires the council as licensing authority at least every three years to prepare and publish its Statement of Gambling Principles that they propose to apply in exercising their licensing and enforcement functions under the Act, the principles that they will follow, and their expectations of licensees. This is set out in the Joint Statement of Policy (“the policy”) and forms an essential part of the decision-making process for gambling applications.

19. Section 349(2) requires the council to periodically review the policy, revising it if thought necessary as a result of the review and publishing the revision before giving effect to it. This is to ensure that the policy reflects current legislation and is relevant to the council’s area and reduces the risk of the council’s policy being open to challenge.

20. The council has to have its Gambling Policy agreed, published and in place by 31 January 2025. Failure to meet this deadline could mean that the council would be unable to properly administer its licensing duties under the Gambling Act 2005 after that date which could lead to unacceptable deficiencies in safeguarding and exposing the public to serious risks and public safety being compromised. The council could be open to allegations of maladministration and to legal challenges.

Climate and ecological impact implications

21. There are no anticipated climate and ecological implications arising from the adoption of the proposed policy, as shown by the climate impact assessment tool output below.



Equalities implications

22. An Equality Impact Assessment has been completed and there are no implications identified.

Risks

23. Failure to properly consider the policy could result in the council not complying with the legislation or statutory guidance. Having a clear policy helps to ensure that licensing decisions are fair, consistent and comply with the legislation.

Other Implications

24. None

Conclusion

25. The committee is recommended to consider the outcome of the consultation and recommend Council to:

- (a) adopt the proposed Joint Gambling Policy
- (b) authorise the Head of Communities to make minor editorial changes to the Joint Gambling Policy.
- (c) authorise the Head of Communities to publish the Joint Gambling Policy in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

26. The committee is asked to consider whether to recommend Council adopt a 'no casino' resolution under section 166 (1) of the Gambling Act 2005, meaning that any application for a casino would not be considered.

Background Papers

- Appendix A – Proposed Joint Statement of Gambling Policy



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Statement of Principles

Gambling Act 2005

Joint statement of licensing policy

This policy was adopted by South Oxfordshire District Council at the meeting of Council on 12 December 2024 and Vale of White Horse District Council at the meeting of Council on 18 December 2024. It comes into force from 31 January 2025 and will be reviewed by 31 January 2028.

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1. Introduction

- 1.1 Gambling activities are regulated by the Gambling Act 2005 ('the Act'). Section 349 of the Gambling Act 2005 states that the councils are required to publish a statement of licensing principles ('policy') which they propose to apply when exercising their functions under the Act. Vale of White Horse and South Oxfordshire District Councils are licensing authorities for the purposes of the Act and this policy shall apply to those two districts. The councils have a duty to consider applications relating to gambling in accordance with the fundamental principles of the Act and must therefore balance the needs of businesses, licence holders and operators to grow, with the public interest, safety and health of the public and the potential impact these activities can have on vulnerable persons, or persons who may be susceptible to gambling related harm.
- 1.2 The Licensing Authority, in carrying out its functions under section 153 of the Gambling Act 2005, shall aim to permit the use of premises for gambling. The 'aim to permit' principle does not mean 'will permit' as it provides a wide scope for the authority to impose conditions on licences, refuse, review or revoke premises licences and permits if there is a conflict with this policy and/or the legislation. The Licensing Authority will carry out its functions in accordance with:
- a) The relevant codes of practice issued under section 24 of the Act
 - b) The relevant guidance issued by the Gambling Commission under section 25 of the Act
 - c) Being reasonably consistent with the three licensing objectives (subject to (a) and (b) above)
 - d) The council's published 'statement of licensing principles' (subject to (a) to (c) above).
- 1.3 This policy is intended to be reasonably consistent with the three licensing objectives set out in the Act. They are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 The Act requires that the following persons and bodies be consulted in relation to any revisions to this policy:
- The Chief Officer of the police
 - Persons and bodies representing the interests of gambling businesses in the council districts of South Oxfordshire and Vale of White Horse
 - Persons and bodies who represent the interest of persons who are likely to be affected by the exercise of the licensing authority's functions under the Gambling Act 2005.
- 1.5 The Act gives the councils various regulatory functions in relation to gambling. The councils' main functions under the Act are:
- licensing premises for gambling activities

- considering notices given for the temporary use of premises for gambling
- granting permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulating gaming and gaming machines in alcohol licensed premises
- granting permits to family entertainment centres (FECs) for the use of certain lower stake gaming machines
- granting permits for prize gaming
- considering occasional use notices for betting at tracks
- registering small societies' lotteries
- maintaining a register of premises licences (for casinos, bingo halls, adult gaming centres, family entertainment centres, betting shops and race tracks).

The councils are required to provide information annually to the Gambling Commission on the numbers of permits and registrations issued as well as the outcome of any premises licence reviews.

The councils maintain statutory registers of premises licensed under the Act. The registers can be viewed on the relevant council's website or by prior request at the council offices.

The current fees and charges for applications for licences, permits and registrations (where chargeable) can be viewed on the relevant council's website.

- 1.6 In reviewing this policy, the councils declare that they have had regard to the licensing objectives stated in the Act, any guidance issued by the Gambling Commission and any responses arising from the consultation process. The policy does not override the right of any person to make an application, make representations about an application or apply for a review of a licence. Each application and representation will be considered on its own merits and in accordance with the Act. The policy has been agreed taking into account the Human Rights Act 1998 and the Equality Act 2010.

2. Responsible Authorities and Interested Parties

- 2.1 Under the Act responsible authorities are public bodies who must be notified of applications and who are entitled to make representations to the licensing authority in relation to applications for and in relation to, premises licences. The responsible authorities for both councils are:
- the licensing authority
 - the Gambling Commission
 - the Chief Constable of Thames Valley Police
 - Oxfordshire Fire and Rescue Service
 - the planning authority (within the relevant council)
 - the environmental protection team (of the relevant council)
 - a body designated in writing by the licensing authority as competent to advise about the protection of children from harm
 - HM Revenue & Customs
 - any other persons prescribed in regulations by the Secretary of State.

Contact details for the above authorities can be found on the relevant council website.

- 2.2 In the event that the premises are a vessel, the following bodies are also responsible authorities:
- the Environment Agency
 - the Canal & River Trust
 - the Secretary of State for Transport (who acts through the Maritime and Coastguard Agency)
- 2.3 In exercising the councils' powers under section 157(h) of the Act to designate a body competent to advise them about the protection of children from harm the following principles have been applied:
- the need for the body to be responsible for an area covering the whole of a licensing authority's area
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- Having regard to the above principles, the councils have designated the Oxfordshire Safeguarding Children Board at Oxfordshire County Council for this purpose.
- 2.4 Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines interested parties as persons or bodies who, in the opinion of the licensing authority:
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) have business interests that might be affected by the authorised activities, or
 - c) represent persons who satisfy (a) or (b)
- 2.5 Whether a person is an interested party is a decision that will be taken by the relevant council on a case-by-case basis, judging each case on its merits. However, the following factors will be taken into account:
- the size of the premises (for example, larger premises may affect people over a wider geographical area)
 - the nature of the activities planned or already taking place
 - 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)
 - the circumstances of the complainant (which may be relevant to the distance from the premises, for example, it could be reasonable for an authority 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
 - the catchment area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected (this is particularly relevant when representations are made by another gambling business who state their

business interests may be affected, however whether there is demand for the premises shall not be taken into account).

- 2.6 This list is not exhaustive and other factors may be taken into consideration if the councils deem it necessary.
- 2.7 The councils consider the following people / bodies to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:
- trade associations
 - residents' and tenants' associations
 - district, county, town and parish councillors
 - MPs
 - school headteachers
 - community groups
 - charities
 - faith groups
 - medical practices
 - bodies that exist to help people with gambling addictions such as GamCare or Gamblers Anonymous.
- 2.8 In other cases, the councils shall require written evidence that the person, association or body represents an interested party.

3. Local Area Profile and Operator Risk Assessments

- 3.1 Social responsibility code 10.1.1 within the Licence Conditions and Codes of Practice (LCCP) requires gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures in place to mitigate those risks. The risk assessment produced shall take cognisance of the council's local area profile and the risks identified in it and any other matter that is relevant in this policy. The risk assessment should be site specific and not a generic 'one size fits all' document. The purpose of the local area risk assessments is to allow operators, stakeholders and the councils to have a greater understanding of the local environment and mitigate the possible risks to the licensing objectives.
- 3.2 The councils will maintain a local area profile (LAP) containing information on the makeup of their area and any actual or potential risks from gambling premises that the councils have identified by observation, data or consultation. The local area profiles are available on the relevant council's website to assist operators in developing their risk assessments as required under the revised code of practice published by the Gambling Commission.
- 3.3 Operators are required to submit their risk assessments as part of an application for a new premises licence, variation to existing licence or on request from the licensing authority. Applicants shall be expected to demonstrate how their application will be consistent with the licensing objectives and taking into account the local area profile

produced by the councils and publicly available data in relation to crime, anti-social behaviour and problem gambling in the specific locality'. Operators are also encouraged to make use of other sources such as the Gambling Commission's 'National Strategy to Reduce Gambling Harms'; publicly available public health data, any council related policies relating to the safeguarding of children and vulnerable persons and publicly available data in relation to crime and anti-social behaviour in the specific locality. Failure to produce a satisfactory local risk assessment could lead to any application attracting representations.

- 3.4 The risk assessments should consider actual and potential risks to the licensing objectives posed by the provision of gambling facilities at a premises. The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area. The assessment should detail the policies, procedures and control measures to mitigate those risks.
- 3.5 Operators will be made aware of any significant changes in the local area profile during the life of this policy so that their risk assessments can be updated.

4. Exchange of Information and Enforcement

- 4.1 The councils regard the lawful and correct treatment of information as important to the successful and efficient performance of their functions, and to maintain the confidence of the people / bodies they deal with. The councils will ensure that information is kept and shared lawfully and correctly and in accordance with data protection regulations.
- 4.2 The councils may share information in accordance with the following provisions of the Act:
 - sections 29 and 30 (with respect to information shared between the councils and the Gambling Commission)
 - section 350 (with respect to information shared between the councils and the other persons listed in Schedule 6 to the Act).
- 4.3 The purpose of information exchange is not only to fulfil the requirements under the Act, but also to enable both the Gambling Commission and the councils to carry out work related to their regulatory functions in a risk-based manner, using the best available information.
- 4.4 In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the councils' policies in relation to data protection and freedom of information.
- 4.5 The councils seek to secure compliance with the law in a variety of ways. Most contact with individuals and businesses is informal, providing advice and assistance over the telephone, during visits and in writing. Formal measures will include warnings, licence reviews and prosecution. The objective of these measures will be to ensure compliance with the licensing objectives including any general or specific licence conditions. Any enforcement action will be taken in accordance with our enforcement policy which is based on the principles of the Regulators' Code.

- 4.6 Part 15 of the Act details inspections that may be made to check for compliance with the Act. The councils will adopt a risk-based approach to the inspection of gambling premises which will be operated in conjunction with the councils' current enforcement policy. This will allow for the targeting of high-risk premises or those where a breach would have serious consequences. Premises that are low risk and/or well-run will be subject to a less frequent inspection regime.
- 4.7 Section 346 of the Act gives the councils the power to instigate criminal proceedings in respect of the offences specified in that section. The councils will ensure that enforcement is carried out in a fair and consistent manner in accordance the councils' enforcement policy.
- 4.8 The councils will endeavour to work with, and avoid duplication with, other regulatory regimes so far as possible.
- 4.9 Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the councils but will be referred to the Gambling Commission.

5. Locality and the licensing objectives

- 5.1 The Licensing Authority shall carry out its functions under the Act so that they are consistent with the three licensing objectives and will expect applicants and licence holders to do the same.
- 5.2 In order to prevent gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime, consideration will be given by the Licensing Authority to the following:
- Where an area has an issue with high rates of crime and/or anti-social behaviour, the council will consider whether a gambling premises are suitable to be located there and whether additional licence conditions such as the provision of CCTV, minimum levels of staffing and licensed door supervisors may be appropriate
 - Whether there is a history of crime and disorder at the premises or it is being used or has been used by those in criminal activities such as disposing of the proceeds of crime
 - Whilst issues of nuisance are not specifically included within the licensing objectives, these may be considered if these instances of nuisance are persistent and could constitute criminal offences
 - To the layout of the premises and analysing whether it is designed in a way to minimise crime and disorder – for example, so staff have clear lines of sight on their customers and any particular sensitive areas of the premises
 - Whether sufficient risk identification, strong management measures and a good understanding of any issues within the proposed locality have been submitted as part of an application and local area risk assessment. Any applicant will have to provide evidence that they meet criteria set out in this policy and any local area profile. Additional information may also be required in relation to how applicants will deter their premises from being used for illegal activities or as a cover for illegal activities if that is requested by the Licensing Authority or police.

- 5.3 To ensure that gambling is conducted in a fair and open way, the Licensing Authority will consider:
- Whether the layout and fitting of the premises has been designed to ensure gambling is being conducted in a fair and open way
 - Whether sufficient and strong measures in relation to the operation and management of the premises are proposed to ensure gambling is conducted in a fair and open way
 - That the operators of the premises have a good compliance history with enforcement authorities and the Gambling Commission's codes of practice.
- 5.4 To ensure the protection of children and vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will consider:
- Whether the operator has a specific training programme to ensure that all staff are able to identify children and vulnerable people and take appropriate action to exclude them from all or part of the premises
 - If the premises is an adult only environment that the operator has a robust proof of age policy such as Challenge 21 or Challenge 25 and that all staff are trained in its use to prevent access to the premises by children
 - Whether the layout, fitting and lighting of the premises is sufficient so staff have clear sight lines
 - Whether sufficient or strong measures in relation to the operation and management of the premises are proposed so as to ensure no child or vulnerable person is harmed by gambling
 - Whether any promotional material associated with the premises could attract young and vulnerable persons to the premises
 - Whether the operator has taken cognisance of any local safeguarding policies in relation to children and vulnerable persons and any national strategies such as the Gambling Commission's 'National Strategy to Reduce Gambling Harms' or any other similar document
 - Whether the operator is aware of issues around potential Child Sexual Exploitation (CSE) and has strong policies and processes in place to identify and deal with issues. Such policies should include staff training, awareness of children who look uncomfortable in the company of adults inside the premises or immediately outside or children attending the premises regularly to meet older people. Staff should also be aware of how to report any potential issues around CSE.
- 5.5 The above considerations set out in paragraphs 5.2-5.4 are not exhaustive. The Licensing Authority will expect applicants to consider all measures necessary to be consistent with the licensing objectives. The location of the premises may be a significant factor if, for example, it is located near a school, hostel, refuge or other sensitive premises or in an area of high deprivation. Persons under the age of 18 cannot be admitted to many types of gambling premises. New gambling premises or variations to existing premises that are in close proximity to sensitive premises should demonstrate that they have robust policies and procedures in place to prevent harm to children and vulnerable persons.
- 5.6 It is noted that the Act and Commission Guidance does not define the term 'vulnerable persons'. The Commission states that "it will, for regulatory purposes, assume that this

group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs". This is the definition of 'vulnerable persons' that the council will use in its consideration of applications.

- 5.7 It is also noted that the Act does not define 'harm' or its context. The council considers harm to mean anything from the physical and mental which is not confined to an individual. For example, a problem gambler at harm from gambling can have negative effects on their families, friends and communities. This is the broad interpretation of harm that the council proposes to use when assessing applications and local area risk assessments. Licence holders are expected to demonstrate that they have robust policies and procedures in place to identify problem gamblers and any harm they may cause to themselves or others.
- 5.8 In relation to locality, the demand or 'clustering' of gambling premises cannot be taken into account. However, the location of gambling premises has a significant impact on the promotion of the licensing objectives. Any application will have to demonstrate that they do not undermine the licensing objectives or exacerbate issues in the locality that could do so. Applicants will be required to provide evidence that they have considered the potential impact of their proposed business on the licensing objectives and how they plan to mitigate those affects.

6. Premises Licences and Primary Gambling Activity

- 6.1 Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required and which is premises based must apply to the licensing authority for a premises licence. A premises licence can authorise the provision of gambling facilities on:
- Casino Premises
 - Betting premises including tracks
 - Adult Gaming Centres
 - Family Entertainment Centres
 - Bingo premises

The Act makes it clear that the primary activity should be that described in the premises licence type. Each premises type will be subject to mandatory and/or default conditions and any conditions by the council – if appropriate for ensuring consistency with the licensing objectives.

- 6.2 In the Act, a premises is defined as 'any place'. No more than one premises licence can apply to any place, however one premises may hold more than one premises licence so long as the building can be genuinely separated
- 6.3 Where two or more licences are applied for within the same building and the council does consider separation genuine, the applicant(s) must still demonstrate how they will uphold the licensing objectives, with particular reference to how they plan to control the access from one part of the building into the other, in order to protect

children from accidentally or otherwise accessing types of gambling to which they are not authorised.

- 6.4 The council will expect applicants to operate premises in line with the Commissions Guidance and conditions on their operator's licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises will provide substantive facilities for the primary gambling activity permitted by the premises licence. For example, a betting (other) premises licence application that only has four gaming machines but no betting counter or associated betting facilities shown on the proposed plans, may not be considered as providing sufficient facilities for the primary gambling activity permitted by that licence and therefore may not be compliant with the Gambling Commissions LCCP or its Guidance to Licensing Authorities. If an application is found not to be operating a premises in accordance with the Gambling Commissions Codes of Practice or the Guidance issued to Licensing Authorities the council has the power to refuse the application as it would not meet the principles as set out in Section 153 of the Act.

Buildings divided into more than one premises / access to premises

- 6.5 Section 7.5 of the Gambling Commission guidance does, in principle, provide for a single building to be subject to more than one licence provided they are for different parts of the building and the different parts of the building could reasonably be considered 'a different premises'. An example given is a shopping mall with multiple self-contained units. To agree to any application for a premises licence or variation, the applicant would have to evidence and the council would have to be satisfied that the premises are genuinely separate and not artificially created. Some of the factors the council will take into account would be whether there are separate registrations for business rates in place at the premises, whether the premises are operated and owned by the same person or organisation, whether the different units are operated independently of each other and whether they can be accessed through distinct entrances.
- 6.6 When considering proposals to divide a building into genuinely separate premises, the council will also need to be satisfied that the form of separation between the premises is appropriate. The separation between one premises and another must be clearly defined, permanent and constructed so the public cannot go from one premises to another. Roping off, moveable partitions and different coloured carpets are examples of methods used by some proprietors to artificially sub-divide premises and the councils will not consider premises 'divided' as such as two separate premises. If applicant's wish to utilise staff in two adjacent premises then they will need to demonstrate that there are robust control measures in place to ensure the safety and security of staff and there are processes in place to prevent members of the public utilising any connecting access point.
- 6.7 Access provisions for each type of gambling premises are set out in section 7.23 of the Gambling Commission guidance and set out to prevent customers being able to enter the premises directly from another licensed premises. This is called 'direct access'. The Commission Guidance, Act and regulations do not define 'direct access' but it does say that licensing authorities may consider that there should be an area

separating the premises concerned, for example, a street or café which the public go to for purposes other than gambling, for there to be no direct access. Regulations define street as 'including any bridge, road, lane, footway, subway, square, court, alley or passage whether a thoroughfare or not'.

- 6.8 It is the council's opinion that any area which separates licensed premises, and from which those premises can be accessed must be genuinely separate premises which are actually used by members of the public other than those using the licensed premises. The council does not consider that provisions which prohibit direct access to licensed premises are satisfied where licensed premises are separated by an area that has been created artificially within a building for persons attending the gambling premises to attend for non-gambling activities, for example, refreshments or ATM machines.
- 6.9 If the council were satisfied that a building could be divided into separate premises which would satisfy the statutory provisions, the council will expect an applicant to provide documentary evidence that the premises are configured so that children have no observation or participation – accidental or otherwise – of gambling activity they are prohibited from taking part in. Entrances and exits from one premises to the other should be permanent, separate and clearly identifiable. And customers should only be able to participate in the activity named on the premises licence for that part of the building.
- 6.10 Any application that is received which seeks to create different premises in the same building purely to increase gaming machine entitlement through creating artificial unlicensed areas in between two areas will likely be objected to. The Act, regulations and Commission's Guidance support the principle that different premises within a single building should not be artificially created, that separation between premises must be adequate and direct access between certain licensed premises is prohibited. Applications that seek to place two licensed premises in one premises with an artificial unlicensed area separating them will also not be acceptable due to the artificial nature of the premises and access issues. It may be possible to have a foyer area or passageway which separates one licensed premises from another. However it must be accessible and generally used by members of the public other than those using the gambling premises. An example would be a hotel lobby which has an entrance to a casino and an adult gaming centre off it. In this example, the foyer would be used by patrons of the hotel and their guests who have no intention of availing themselves of the gambling facilities.

Adult gaming centres

- 6.11 Operators of an adult gaming centre must obtain an operating licence from the Gambling Commission and a premises licence from the relevant council. This will allow the operator to make category B, C & D machines available to their customers.
- 6.12 In considering licence applications for adult gaming centres, the applicant will have to evidence that they meet the requirements of this policy – particularly those set out in sections 3 and 5 – and demonstrate how any application is cognisance of the requirements of the Act, regulations, Commission guidance and the licensing objectives. Because gaming machines provides opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The council in considering premises licences and will specifically have regard to the

need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises. The councils will also expect applicants to demonstrate that there will be sufficient measures in place to promote all of the licensing objectives.

Licensed family entertainment centres

- 6.13 Operators of a licensed family entertainment centre will require an operating licence from the Gambling Commission and a premises licence from the relevant council. This will allow the operator to make category C and D machines available to their customers.
- 6.14 Children and young persons will be able to enter licensed family entertainment centres and play category D machines. They will not be permitted to play category C machines.
- 6.15 As family entertainment centres will particularly appeal to children and young persons, consideration shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres the councils will require 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 category C machines are located
 - access to the area where the category C machines are located is supervised
 - the area where the category C 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 notices prominently displayed indicating that access to the area is prohibited to persons under 18.
 - the applicant will have to evidence that they meet the requirements of this policy – particularly those set out in sections 3 and 5 – and demonstrate how any application is cognisant of the requirements of the Act, regulations, Commission guidance and the licensing objectives.

Tracks

- 6.16 Tracks are sites (including racecourses and dog tracks) where races or sporting events take place. Operators of tracks will require a premises licence from the relevant council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).
- 6.17 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.
- 6.18 It is a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided and any area where a gaming machine, other than a category D machine, is situated. In relation to the areas used for betting, special dispensation from this rule is provided for dog tracks and horse racecourses on days when racing takes place. On these days families will be entitled to attend a track or racecourse and children may enter the areas where facilities for betting

are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided and the councils will therefore expect that suitable measures are in place to prevent children from entering such areas.

- 6.19 Holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make up to four gaming machines available (categories B2 to D) on the track. The councils will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.
- 6.20 The councils will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public, for example, the rules could be printed in the race card or made available in leaflet form from the track office.
- 6.21 The councils will require the following information from applicants for premises licences in respect of tracks:
- detailed plans for the racetrack itself and the area that will be used for temporary 'on-course' betting facilities (often known as the 'betting ring')
 - in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated as well as any other proposed gambling facilities.
 - the applicant will have to evidence that they meet the requirements of this policy – particularly those set out in sections 3 and 5 – and demonstrate how any application is cognisance of the requirements of the Act, regulations, Commission guidance and the licensing objectives.
- 6.22 Plans submitted with the application should be clearly marked to show what licensable activities will take place where and how children will be separated from category C machines.
- 6.23 The councils will accept occasional use notices for tracks in accordance with section 39 of the Act.

Casinos

- 6.24 The Act states that operators of a casino must obtain an operating licence from the Gambling Commission and a premises licence from the relevant council.
- 6.25 In July 2012 a Culture, Media and Sport Select Committee reviewed the Act and recommended that any local authority should be able to make its own decision about whether to have a casino in its district. The Committee also recommended that the licences for casinos that were licensed under the pre-existing Gaming Act of 1968 be made portable, allowing operators to relocate to any local authority (with the authority's consent).
- 6.26 **Vale of White Horse District Council:** Policy not to allow applications for a casino

Section 166 of the Act gives the council the power to pass a 'no casino' resolution, meaning that applications for a casino would not be considered. The council has

adopted a 'no casino' resolution on the basis that this rural district with market towns is an inappropriate place for a casino, that casinos are better located in large towns or cities, and the council should also protect the most vulnerable people from gambling in casinos. This resolution is required to be renewed within three years.

6.27 South Oxfordshire District Council: Policy not to allow applications for a casino

Section 166 of the Act gives the council the power to pass a 'no casino' resolution, meaning that applications for a casino would not be considered. The council has adopted a 'no casino' resolution on the basis that the district was not a suitable location for a casino, that it could bring the potential for criminal exploitation and risk of money laundering, the need to protect the vulnerable from gambling harm, and the risk of harm from addiction to gambling. This resolution is required to be renewed within three years.

Betting premises

- 6.29 Betting premises are those premises which take bets other than at a track (commonly known as a licensed betting office). Operators of betting premises will require an operating licence from the Gambling Commission and a premises licence from the relevant council.
- 6.30 It is unlawful for anyone under the age of 18 to place a bet. Persons under the age of 18 shall not be permitted to enter a premises licensed for betting.
- 6.31 The councils expect applicants to demonstrate how they will ensure that neither children nor vulnerable persons are able to place a bet, for example by detailing proof of identification and self-barring schemes and staff training. The applicant will have to evidence that they meet the requirements of this policy – particularly those set out in sections 3 and 5 – and demonstrate how any application is cognisance of the requirements of the Act, regulations, Commission guidance and the licensing objectives. The council also needs to be satisfied about the primary use of the premises as a betting premises meaning applicants will be expected to demonstrate that they can offer sufficient facilities for betting and they have the right to occupy the premises.
- 6.32 At the time of writing, the holder of a betting premises licence may make available for use up to four gaming machines of category B (B2, B3 or B4), C or D.
- 6.33 The councils may, in accordance with section 181 of the Act, enforce the number of betting machines, their nature and the circumstances in which those machines are made available for use. When considering whether to impose such conditions, the councils will take into account the following:
- the size of the premises
 - the number of counter positions available for person-to-person transactions, and
 - the ability of staff to monitor that machines are not used by children and young persons or by vulnerable people.

Bingo premises

- 6.34 Operators of premises offering bingo (cash or prize bingo) will require a bingo operating licence from the Gambling Commission and a premises licence from the relevant council. In considering licence applications for bingo premises, the applicant will have to evidence that they meet the requirements of this policy – particularly those set out in sections 3 and 5 – and demonstrate how any application is cognisance of the requirements of the Act, regulations, Commission guidance and the licensing objectives.
- 6.35 The council will need to be satisfied that bingo can be played in any premises for which it grants a bingo premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences for that or those excluded areas.
- 6.36 The councils note the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted and that it is not permissible to exceed 20 percent of the total number of B3 machines available for use in the premises.
- 6.37 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are present, these must be separated from areas where children and young people are allowed. Where category C or above machines are available in premises to which children are admitted the councils will require that:
- all such machines are located in an area separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
 - access to the area where the machines are located is supervised
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
 - at the entrance to and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 6.38 To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the licensing authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued. Particular consideration will be given when the operator of an existing bingo premises applies to vary the premises licence to exclude an area of the existing premises and then applies for a new licence for the excluded area.

Provisional statements

- 6.39 Section 204 of the Act provides for a person to make an application for a provisional statement in respect of premises they expect to be constructed, altered or expect to acquire the right to occupy. For example, a developer may wish to apply for a provisional statement to see whether a premises licence would be issued prior to entering into a contract to buy or lease the premises. Equally, a provisional statement may be applied for where there is already a premises licence but the application is for a different type of gambling.

- 6.40 An applicant need not hold an operating licence from the Gambling Commission before applying for a provisional statement and the councils shall not consider the likelihood of an operating licence being granted in determining whether to grant the provisional statement.
- 6.41 If a provisional statement has been granted, the fee for the subsequent premises licence application will be less and the councils are constrained in considering matters; no further representations from responsible authorities or interested parties may be considered 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.
- 6.42 The councils may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by way of representations at the provisional statement stage
 - which, in the council's opinion, reflect a change in the operator's circumstances
 - where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. (There must be a substantial change to the plan and the council shall discuss any concerns with the operator before coming to a final decision).

7. Determination, Conditions and Reviews

Determination of applications

- 7.1 All applications for the grant, variation or review of a licence or permit will be considered on their own merits. The Act makes it clear that neither issues of demand for a premises nor compliance with planning or building regulations are to be considered when councils make decisions about applications. With regard to premises licences, the councils will consider all applications in accordance with the 'aim to permit' principles contained in section 153 of the Act.
- 7.2 Licensing authorities are obliged to consider representations from 'responsible authorities' and 'interested parties'. Only representations that relate to the licensing objectives or raise issues under the licensing authority's policy or Commission's guidance or codes of practice are likely to be relevant. If the Licensing Authority deems a representation frivolous and/or vexatious, it will notify the party concerned.
- 7.3 When determining an application, the licensing authority will assess it based on compliance with the contents of this policy, the Act, codes of practice, the Gambling Commission Guidance and how it will be consistent with the licensing objectives. Applications that do not comply with the above, provide little evidence or are found to have a history of regulatory non-compliance may attract representations.

Conditions

- 7.4 The Act provide that premises licences can be subject to conditions in multiple ways. They may have been set out specifically in the Act or through regulations. They may be the default/mandatory conditions set out in the Act or they may be attached to premises licences by licensing authorities if they deem them appropriate.
- 7.5 Conditions on premises licences should relate only to gambling as considered appropriate in the light of the principles applied by licensing authorities under section 53 of the Act. It would not be appropriate to duplicate restrictions already imposed on an operator by the Commission or other legislation.
- 7.6 An example of conditions set out in the Gambling Act would be:
- Section 172 specifically outlines the permitted gaming machines for each premises type.
 - Section 176 requires the Commission to issue at least one code of practice for access to casinos by young persons – in particular ensuring that under 18s do not enter the premises and ask for evidence of age before admittance of any person who may look under 18.
 - Section 177 attaches a condition to casino premises and bingo premises that they may not issue credit in connection with the gambling that takes place on those premises.
 - Section 178 states that if a condition is attached to the premises licence in respect of the requirement for door supervision that they are licensed and accredited in line with the Private Security Industry Act 2001.
 - Section 182 provides a condition in relation to access by children and young persons to tracks in that the licence holder must ensure that children are excluded from any area where betting facilities or gaming machines (other than category D machines) are provided

The above is not an exhaustive list but all have been included in primary legislation with the aim of promoting the licensing objectives.

- 7.7 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 sets out conditions that must be attached to all premises. Conditions under these regulations relate to mandatory conditions that must be attached to premises licences and default conditions that should also be attached to premises licences unless the licensing authority decides to exclude them. Examples of mandatory conditions relate to the display of the summary of the premises licence in a prominent place on the premises and the layout of the premises must be in accordance with the plan. There are also mandatory conditions attached to each premises type and these along with the default conditions can be found on the Gambling Commission website. It will usually be the case that the mandatory and default conditions are the only conditions required to be attached to any licence. However, where risks are identified either by a responsible authority, or by the applicant in their local risk assessment, additional conditions may be added.
- 7.8 Conditions that cannot be attached to a premises licence by the licensing authority include any that makes it impossible for an operator to comply with the conditions of

their operator licence issued by the Commission, any condition that relates to limiting quantities of gaming machines or categories of gaming machine or any condition relating to changes in stakes, fees, winnings or prizes.

- 7.9 The Licensing Authority has produced a document of model conditions that any applicant may wish to consult and then include within any application if they deem them necessary to comply with the expectations set out in this policy, the Act, codes of practice, guidance and to ensure that those measures are consistent with the licensing objectives. The council may look to impose or modify these conditions if it believes it necessary to comply with all of the above and if the premises is in an area identified as having particular issues in relation to crime or is situated in a high risk location. This document can be located on the councils' websites.

Reviews of premises licences

- 7.10 After a licence has been granted, an option to review that premises licence is a key tool in dealing with breaches of conditions, policy or the undermining of the licensing objectives. Section 197 of the Act provides that an application for a review of a premises licence may be made by a responsible authority or interested party. There are regulations governing reviews (The Gambling Act 2005 (Premises Licences) (Review) Regulations 2007) which state that the person applying for the licence to be reviewed must do so in writing using a prescribed form, stating the reasons why a review is being requested and submitting it to the relevant council with any supporting documents. They must then send the same information to all (other) responsible authorities within seven days. Failure to do this will mean that the review process is halted until the documents are received by all parties.
- 7.11 The relevant council must grant the application for a review unless it thinks the grounds on which it is sought:
- are not relevant to this policy, or any guidance or codes of practice issued by the Gambling Commission, or the licensing objectives
 - are frivolous
 - are vexatious
 - 'will certainly not' cause the council to revoke or suspend a licence or to remove, amend or attach conditions to the premises licence
 - are substantially the same as the grounds cited in a previous application or substantially the same as representations made at the time the licence was granted, depending on how much time has passed (the licence should not be reviewed based on the same arguments that have already been considered by the relevant council).
- 7.12 Within seven days of receiving the application to review a premises licence, the relevant council will publish notice of the application in accordance with the relevant regulations.
- 7.13 Representations in response to the application must be made within the 28 days which follow publication of the notice and the relevant council must carry out the review as soon as possible after the 28 days has ended.
- 7.14 If the relevant council deems action is justified, its options are to:

- add, remove or amend a licence condition imposed by the relevant council
- exclude a default condition imposed by the Secretary of State (relating to for example, opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months
- revoke the premises licence.

7.15 The relevant council will notify the licence holder, the applicant for the review, any person who made representations, the Gambling Commission, the Chief Constable of Thames Valley Police and HM Revenue and Customs of the outcome of the review as soon as possible.

Appeals against a decision of the councils

- 7.16 The Act details the process for appeals against the councils' decisions regarding licences, permits, provisional statements and temporary use notices. In all cases appeals are to the local Magistrates' Court within 21 days of the appellant's receipt of the councils' decision.
- 7.17 Any party may apply for a judicial review if they believe that a decision taken by the relevant council is:
- beyond the powers available to it
 - subject to procedural impropriety or unfairness
 - irrational (a decision so unreasonable no sensible person could have reached it).

8. Permits

- 8.1 Details of current machine categories including maximum stakes and pay-outs permitted and the entitlement of certain premises to certain categories and numbers of machines can be found at www.gamblingcommission.gov.uk.
- 8.2 The councils will expect applicants to be able to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permitted in their premises and that staff are trained to have a full understanding of them.
- 8.3 The holder of a permit must comply with any code of practice issued by the Gambling Commission about the location and operation of any machine(s).

Unlicensed family entertainment centre gaming machine permits (FECs)

- 8.4 Unlicensed FECs are able to offer category D machines if granted a permit by the relevant council. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, they will need to apply for an operating licence from the Gambling Commission and a premises licence from the relevant council.
- 8.5 The councils can grant or refuse an application for an FEC permit, but cannot attach conditions.

- 8.6 As unlicensed family entertainment centres appeal to children and young persons, the councils expect applicants to pay particular attention to the example measures detailed in this policy.
- 8.7 In considering the protection of children, the councils will expect the applicant to show not only how they intend to protect children from gambling but also that they have taken into account wider child protection considerations in their policies and procedures. The efficacy of such policies and procedures will be considered on their merits.
- 8.8 The councils will not grant a permit for unlicensed family entertainment centres if the applicant has a relevant conviction (as set out in Schedule 7 to the Act). Applicants will be required to undergo an enhanced Disclosure and Barring Service (DBS) check.

(Alcohol) licensed premises gaming machine permits

- 8.9 The Gambling Commission has published several useful leaflets and guidance about gaming machines and other types of gambling specifically to provide information to premises authorised to sell alcohol. These can be found at: www.gamblingcommission.gov.uk.
- 8.10 Premises licensed to sell alcohol for consumption on the premises are automatically entitled to two gaming machine permits, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will need to notify the council and pay the prescribed fee.
- 8.11 The councils can remove the automatic authorisation in respect of any 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 Act
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises.
- 8.12 If the holder of the premises licence wishes to have more than two machines in the premises, they will need to apply for a permit.
- 8.13 As children may be present in alcohol licensed premises, the councils expect applicants to pay particular attention to the measures detailed in this policy around public safety – in particular relation to children and vulnerable people.
- 8.14 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 under the Gambling Act, not the Licensing Act.
- 8.15 The councils can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for, however conditions cannot be attached to the permit.

Club gaming and club machine permits

- 8.16 The numbers and categories of machine permitted are different to non-clubs. The current details of maximum stakes and pay-outs permitted for each machine category and numbers of machine(s) permitted can be found at www.gamblingcommission.gov.uk.
- 8.17 The councils may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance.
- 8.18 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the councils for a club machine permit under section 273 of the Act.
- 8.19 To qualify, 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. 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 the Royal British Legion, sports and social clubs, bridge and whist clubs and clubs with political affiliations.
- 8.20 The councils must satisfy themselves that the club genuinely meets the requirements of the Act to obtain a club gaming permit and therefore may ask for supporting documents. The following is a list of matters that will be considered:
- the procedures for guests accepted into the club
 - how the club is advertised
 - the running of the club, for example committee meetings, financial accounts and election of committee members.
- This list is not exhaustive and the councils may ask for any documents they feel are necessary in determining whether a club is genuine, even if it has already been granted a club premises certificate under the Licensing Act 2003.
- 8.21 An application may only be refused on one or more of the following grounds:
- 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 condition 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.
- 8.22 Under section 72 of the Act there is a 'fast-track' procedure available for clubs which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling

Commission or the police and the grounds upon which a council can refuse a permit are reduced.

- 8.23 The grounds on which an application under the fast track procedure may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12 of the Act
 - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - that a club gaming permit or club gaming machine permit issued to the applicant in the last ten years has been cancelled
- 8.24 The councils may grant or refuse an application for a club gaming or club machine permit but cannot attach any conditions to it. However there are a number of conditions in the Act that the holder must comply with. These are contained in the Gaming Machine Permits Code of Practice issued by the Gambling Commission. This can be found at www.gamblingcommission.gov.uk

Prize gaming permits

- 8.25 Section 288 of the Act defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for, or raised by the gaming.
- 8.26 Casinos, bingo premises, adult gaming centres and licensed family entertainment centres do not require a permit in order to offer prize gaming.
- 8.27 Travelling fairs do not require a permit to offer equal chance prize gaming, provided that taken together the facilities for gambling are ancillary to the fair.
- 8.28 Children and young persons may only participate in equal chance prize gaming.
- 8.29 Applicants for a prize gaming permit should set out the types of gaming that they intend to offer. The applicant should be able to demonstrate:
- that they understand the limits on stakes and prizes that are set out in regulations; and
 - that the gaming offered is lawful.
- 8.30 The councils can grant or refuse an application for a permit, but cannot attach any conditions to it. However, there are four conditions in the Act that permit holders must comply with. These 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.

8.31 Councils can only grant a permit if they have consulted the chief officer of police about the application. Applicants must disclose any relevant convictions they may have to the council and the council will consider any objections that the police make about the suitability of person or the premises, including its location and the potential for disorder.

9. Small Society Lotteries

- 9.1 The Licensing Authority is responsible for registering small society lotteries. The Act defines a lottery as a simple lottery or complex lottery. An arrangement is a simple lottery if persons are required to pay a prize to participate, one or more prizes are allocated to one or more members and the allocation of prizes are carried out using a process which relies wholly on chance. A complex lottery is similar in terms of the payment to participate and allocation of prizes to a member but differs in that prizes are allocated by a series of processes and the first of those processes relies wholly on chance.
- 9.2 The Act defines a society as such that it is established and conducted for charitable purposes as defines in the Charities Act 2006; for the purpose of enabling participation in, or of supporting sports or a cultural activity or for any other non-commercial purposes other than that of private gain.
- 9.3 Participation in a lottery is a form of gambling and anyone seeking to run a lottery should conduct it in a socially responsible way. This includes having effective procedures in place to minimise the risk of lottery tickets being sold to children. The councils would therefore expect that operators of licences ensure that nobody under the age of 16 is a player by utilising an age verification policy similar to that used by pubs and shops that sell alcohol.
- 9.4 Lotteries may involve the issuing of physical or virtual tickets (such as in the form of an email or text message). All tickets must state the name of the promoting society, the price of the ticket (which must be the same as the price of all tickets for that draw), the name and address of the person at the society who is responsible for the draw and the date of the draw. It is also recommended that operators of lotteries keep records of any unsold or returned tickets for a period of one year.
- 9.5 Lottery tickets shall not be sold to a person in any street, bridge, road, footway, subway, alleyway, passageway or court. Tickets can be sold in the street from a static area such as a kiosk or door to door subject to relevant licences and permits being obtained from the council.
- 9.6 Prizes awarded in small society lotteries can be either cash or non-monetary. The value of prizes must not exceed the limits set out by the Act – in effect that combined with any expenses incurred during the running of the lottery – they must not comprise more than 80 percent of the total proceeds of the lottery. Donated prizes would not be counted as part of this but are still subject to the limit on a single maximum prize limit of £25,000. Any prizes involving alcohol should be subject to age checking processes before being awarded.

- 9.7 The Act sets out a number of offences that relate to lotteries including running licences without a licence, misusing the profits of a lottery, purporting to be a small society lottery when not, failing to submit a return document after the lottery or obstructing or misleading council officers, the police, the Commission or any other relevant law enforcement body. Small society operators are likely to be prosecuted should such offences come to light.
- 9.8 When assessing any registration by a society, the licensing authority will assess whether the proposed society meets the definition within the Act in that it must be non-commercial, that the value of tickets to be put on sale in a single lottery is less than £20,000 or £250,000 in a year. The small society operator must only register where their principal office is located. It would generally not be acceptable for a society to try and register more than once with any authority or separate authorities if they have the same aims and objectives as this would likely constitute a breach of the threshold limits stated in the Act. Any registration that is granted will only be for a year and is renewable for the correct fee before the anniversary of the expiry.
- 9.9 Operators of small society lotteries are required to submit a return to the licensing authority after each lottery. This must be done no later than three months after the draw and must be signed by two members of the society. The return must contain the arrangements for the lottery such as the date and the value of any prizes; the total proceeds of the lottery; the amount deducted by the operator of the lottery for costs and prizes the amount applied to the purposes for which the promoting society is conducted (this must be at least 20 percent of the proceeds) and whether any expenses were incurred that were not paid via a deduction from the proceeds.
- 9.10 The council has produced some guidance in relation to small society lotteries which is available on the relevant website. The Gambling Commission has also produced a number of helpful resources and factsheets which can be accessed on www.gamblingcommission.gov.uk

10. Temporary use notices and occasional use notices

- 10.1 Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operator's licence wishes to use the premises temporarily for providing facilities for gambling.
- 10.2 The Licensing Authority can only grant a temporary use notice to a person or company holding a relevant operating licence. The Licensing Authority, on receipt of a notice, will consider whether gambling should take place or should take place with modifications to the notice. The Licensing Authority will consider:
- The suitability of the premises
 - The location of the premises – in particular its proximity to any sensitive premises such as schools
 - Whether CCTV coverage; the use of door supervisors and the employment of sufficient staff are in place for the entirety of the notice period

- Whether the notice giver has the council any concern at previous events relating to the licensing objectives, guidance issued by the Commission, the codes of practice or the council's policy.
- 10.3 A TUN must be lodged with the Licensing Authority not less than three months and one day before the day on which a gambling event will begin and must be given by the holder of an operator licence using the prescribed form. The notice must be copied to the Gambling Commission, the police for the relevant area, HMRC and, if applicable, any other licensing authority where the proposed premises is situated.
- 10.4 If objections are received to a temporary use notice (from the police, Gambling Commission, HM Revenue & Customs or any other licensing authority in whose area the premises are situated), the council must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).
- 10.5 If the council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:
- prevent the temporary use notice from taking effect
 - limit the activities that are permitted
 - limit the time period of the gambling or
 - allow the activities to take place subject to a specified condition.
- 10.6 The councils will apply the principles set out in this policy to any consideration as to whether to issue a counter-notice.
- 10.7 The council has very little discretion as regards Occasional Use Notices (OUNs) to accept bets at "tracks", aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The council will, however, consider the definition of a "track" and whether the applicant will need to demonstrate that they are in fact responsible for the administration of the "track" or is an occupier, and therefore permitted to avail themselves of the notice. It should be noted that the definition of track in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues in the districts. If notices are given for a single track which would permit betting to occur for more than 8 days per year the council has an obligation to issue a counter notice preventing such a breach occurring.
- 10.8 Local sporting clubs or other venues seeking to become tracks through a contrived sporting event have utilised OUNs to solely or primarily facilitate betting taking place on events occurring away from the identified venue – for example the Grand National. The Gambling Commission have not yet introduced a new licence condition limiting the betting to the outcomes of races, competitions or other sporting events taking place at the track in question but is keeping it under review as this is likely a misuse of OUNs.
- 10.9 The process of obtaining an OUN is set out in the Act. The notice must be sent to the licensing authority and copied to the chief officer of police for the relevant area. Provided that the notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for the issuing of any counter notices or for the consideration of objections.

11. Travelling Fairs

- 11.1 The Act defines a travelling fair as, 'wholly or principally' providing amusements.
- 11.2 To be exempt from requiring a permit for gaming machines, the fair must be on a site that is not used for a fair for more than 27 days per calendar year (regardless of whether it is the same or different travelling fairs which occupy the land).
- 11.3 Fairs may provide an unlimited number of category D machines provided the facilities for gambling amount to no more than ancillary amusement to the fair.
- 11.4 Whilst the gaming machine providers may be exempt from the requirement to hold a permit, they must comply with the legal requirements about how the machines operate.
- 11.5 The councils will liaise with neighbouring authorities to ensure that land used for fairs which crosses local authority boundaries is monitored.

12. Contacts

- 12.1 Advice and guidance can be obtained from the licensing team and on the licensing pages of the relevant council's website.

Licensing Team Vale of White Horse District Council Abbey House Abbey Close Abingdon OX14 3JE Tel: 01235 422556 Email: licensing.unit@whitehorsedc.gov.uk Website: www.whitehorsedc.gov.uk/licensing/gambling-licences/	Licensing Team South Oxfordshire District Council Abbey House Abbey Close Abingdon OX14 3JE Tel: 01235 422556 Email: licensing@southoxon.gov.uk Website: www.southoxon.gov.uk/licensing/gambling-licences/
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- 12.2 Further information can also be found at www.gamblingcommission.gov.uk.

Annex 1 - Licensing authority delegations

Matter to be dealt with	Full Council	Licensing Acts Panel	Officers
Final approval of three year licensing policy statement	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for premises licences (new, variation and transfer) and provisional statements		X Where representations have been received and not withdrawn	X Where no representations received or all have been withdrawn
Determine review of a premises licence		X	
Initiate review of a premises licence			X
Application for club gaming/ club machine permits		X Where objections have been made and not withdrawn	X Where no representations received or all 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	
Revocation of premises licence due to failure to pay annual fee			X
Registration of small society lotteries			X
Cancellation of registration of small society lottery due to failure to pay annual fee			X

X indicates the lowest level to which decisions can be delegated