

# Licensing Acts Committee Report



Report of Head of Legal and Democratic Services

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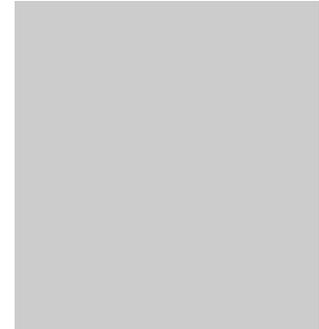
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Wards affected: All

To: Licensing Acts Committee

DATE: 24 November 2015



## Joint Gambling Policy

### Recommendations

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

- (i) adopt the proposed Joint Gambling Policy
- (ii) authorise the Head of Legal and Democratic Services to make minor editorial changes to the Joint Gambling Policy.
- (iii) authorise the Head of Legal and Democratic Services to publish the Joint Gambling Policy in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006.

### Purpose of Report

1. To consider the Joint Gambling Policy following the statutory consultation.

### Strategic Objectives

2. The Joint Gambling Policy will further the council's role in improving public safety and promoting the economy. The policy will also ensure the council is meeting its statutory responsibilities.

## Background

3. The gambling policy is subject to statutory review every three years. The Policy is due for review by 31 January 2016.

## Proposed policy

4. There are only two significant changes to the gambling policy both of which will be legal requirements in 2016:
5. Local Area Profiles: this places a requirement on all local councils to publish information on their areas with regard to geography, population information and economic data. This information is there to allow operators of gambling businesses to complete risk assessments of their operations.
6. Operator Risk Assessments: all operators of gambling businesses must complete a risk assessment of their activities and operations on the local area within which they are based.

## Consultation results

7. The consultation lasted four weeks from 28 September to 23 October 2015. It was a public consultation and went out to all councillors and responsible authorities as defined under the Gambling Act 2005.
8. There was one response to the consultation. This was from the Association of British Bookmakers (ABB) via their solicitors, Gosschalks. The letter is shown in appendix one to this report.
9. The overall response level was very low. The changes requested by the ABB are minor in nature but do provide some additional clarification without impacting upon the council's policy direction and aims.
10. The low level of consultation responses show that the policy can be recommended for adoption (appendix two to this report) subject to the identified responses and minor wording changes shown below which have been incorporated into the policy at appendix two.
11. In Section 2.6.1; add a reference to nuisance as an irrelevant issue: The councils can only make decisions based on the licensing objectives and not for unrelated moral, ethical or business reasons, for example, a general dislike of gambling, *nuisance* or expected demand.
12. In Section 2.7 we do not propose to contain the local area profile in the statement of policy. There is no requirement to do so and it would mean that we would have to consult if we wished to change the profile in the future.
13. In Section 2.8.2; replace the word 'promote' with 'support': The councils expect applicants to show that they have policies and procedures in place to *support* the licensing objectives, for example; exactly how they intend to ensure that children cannot gamble in their premises. Applicants are required to consider the following steps in promoting all three objectives:.....
14. In Section 2.84 – The paragraph has been amended to remove the unnecessary reference to paragraph 2.5.2.

15. In section 4.4.2; add the following wording to clarify the council's powers under the Act. *Conditions will only be imposed to address specific risks under the licensing objectives.* Any conditions imposed by the councils will be proportionate to the circumstances that they are seeking to address. In particular, the councils will ensure that premises licence conditions:

### **Gambling policy adoption process**

16. It is the role of the Cabinet to recommend to Council to adopt the gambling policy. This committee is asked to recommend to Cabinet to recommend to Council to adopt the policy and authorise the Head of Legal and Democratic Services to make minor editorial changes and to publish the policy as required by the regulations.

### **Implementation**

17. 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. The policy will be due for renewal on 31 January 2019.

### **Financial Implications**

18. There are no financial implications arising from the adoption of the proposed policy.

### **Legal Implications**

19. The joint policy has been drafted to reflect current legislative requirements and guidance. All applications for licences and permits under the Gambling Act 2005 have to be made and determined in accordance with the council's gambling policy.

### **Risks**

20. Failure to reflect the requirements of the Gambling Act 2005 and associated regulations could result in the councils not complying with the legislation. Having a clear policy helps to ensure that licensing decisions comply with the legislation and are made fairly and consistently.

### **Conclusion**

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

(i) adopt the proposed Joint Gambling Policy

(ii) authorise the Head of Legal and Democratic Services to make minor editorial changes to the Joint Gambling Policy.

(iii) authorise the Head of Legal and Democratic Services to publish the Joint Gambling Policy in accordance with the Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006.

### **Background Papers**

none

## APPENDIX 1



GOSSCHALKS  
SOLICITORS

South Oxfordshire District Council  
Planning Department  
135 Eastern Avenue  
Milton Park  
Milton  
Abingdon  
OX14 4SB

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097505.00004  
#GS418529  
**Your ref:**  
**Date:** 13 October 2015

Dear Sirs,

### **Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows

anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said:

*"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

**Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

**Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it

will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

**Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

**Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

**Specific Policy Comments**

The draft statement of principles recognises at paragraph 2.6.1 that moral, ethical or business reasons, a general dislike of gambling or unexpected demand are not criteria for the licensing authority when considering Gambling Act 2005 applications. It is respectfully submitted that this paragraph be expanded to state that issues of nuisance and the likelihood of the grant of planning permission or building regulation approval are not issues that can be taken into account when considering an application for a premises license.

Paragraph 2.7 deals with the local area profile and operator risk assessment. It would assist the statement of principles if the requirements for operator risk assessments and the local area profile were contained within the draft statement of policy and were the subject of

consultation. It is important that when prescribing matters to be taken into account, only matters relevant to the licensing objectives should be considered.

Paragraph 2.8.2 includes references to promote/promoting the licensing objectives. The draft statement of policy needs to be clear that under Gambling Act 2005, the licensing authority is required to “have regard” to the licensing objectives and applications/operations need to be “reasonably consistent” with the licensing objectives. The only body upon whom Gambling Act 2005 confers a duty to promote the licensing objective is the Gambling Commission. The draft statement of policy needs to be amended to reflect this.

Paragraph 2.8.4 indicates that an application will not be refused due to concerns about the licensing objectives. The draft statement of licensing policy needs to be clear that the overriding principle of “aim to permit” will be followed by the licensing authority and where there is evidence of a risk to the licensing objectives then the first issue for a licensing committee is to determine whether or not that risk can be mitigated by the imposition of additional conditions.

Paragraph 4.4 deals with conditions. The statement of licensing policy should be clear that the starting point for consideration of any application is that it will be granted only subject only to the mandatory and default conditions. Additional conditions will only be considered where there is evidence of a risk to the licensing objectives in a particular case that the mandatory and default conditions needed to be supplemented. Once again, the policy should be clear that the imposition of conditions will only follow evidence of a risk to the licensing objectives rather than mere concerns/perceived need.

## **Conclusion**

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,

**GOSSCHALKS**

APPENDIX 2



# **Statement of Principles**

## **Gambling Act 2005**

### **Joint statement of licensing policy**

This policy was adopted by the Vale of White Horse District Council at the meeting of Council on 16 December 2015 and South Oxfordshire District Council at the meeting of Council on 17 December 2015 and comes into force from 31 January 2016 and will be reviewed by 31 January 2019.

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## GLOSSARY

### Adult gaming centres

Adult gaming centres (AGCs) are a category of gambling premises contained within the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Gaming Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence may make available for use up to four category B3 or B4 machines, any number of category C or D machines.

### Amusement arcades

These are not referred to as such in the Act. See adult gaming centres and licensed and unlicensed family entertainment centres.

### Betting

Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true.

### Bingo

Bingo has no statutory definition in the Act. It has its ordinary and natural meaning. The distinction between cash bingo, where cash prizes are derived from the stakes, and prize bingo, where prizes were not directly related to the stakes paid, under the previous legislation has been removed for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize.

That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms. So too will alcohol-licensed premises, club and miners' welfare institutes (up to a total weekly prize value of less than £2,000).

Prize bingo is traditionally played in arcades, or travelling funfairs. For these operators, prize bingo is subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs, and any premises with a prize gaming permit will be able to offer prize gaming, which includes prize bingo.

### Casino

A location where people can participate in one or more casino games.

### Casino games

Games of chance not being equal chance gaming. i.e. games in which players stake against a "bank".

## **Councils**

The licensing authorities. Vale of White Horse District Council in its capacity as the licensing authority for the area of Vale of White Horse and South Oxfordshire District Council in its capacity as the licensing authority for the area of South Oxfordshire.

## **Equal chance gaming**

This is a game where the chances of winning are equally favourable to all participants, and which does not involve playing or staking against a “bank”. It is immaterial how the “bank” is described and whether or not it is controlled by a player.

## **Exempt activities**

Private betting is betting which takes place between inhabitants of the same premises or between employees of the same employer.

Private gaming (which is gaming that takes place in private dwellings and on domestic occasions) is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access.

Non commercial gambling is when no part of the proceeds/profits will be for private gain. The proceeds/profits are the sums raised by the organisers, for example, by way of fees for entrance or participation, or by way of stakes, minus an amount deducted by the organiser in respect of costs reasonably incurred in organising the event including the provision of a prize. The following conditions would also have to apply:

- the profits will be for a purpose other than that for private gain
- the players are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain
- the event must not take place in premises which either have a premises licence or on premises relying on a temporary use notice under the Act
- the gaming must not be remote.

Any regulations made by the Secretary of State will need to be complied with and will include for example regulations limiting the amounts staked and limiting participation fees. If the profits from the activity are used for a purpose other than that which was specified, an offence would be committed.

## **Gambling**

Gambling is defined as: gaming, betting or participating in a lottery.

## **Games of chance**

This covers games that involve both chance and skill. This includes games in which skill can eliminate an element of chance and includes games that are presented as involving an element of chance. It does not include a sport. Playing a game of chance need not involve other participants.

## **Gaming**

Gaming means playing a game of chance for a prize.

## **Guidance**

The Gambling Commission under section 25 of the Act is required to issue guidance on the manner in which local authorities are to exercise their functions under the Act, in particular, the principles to be applied by local authorities in exercising their functions under the Act.

## **Interested parties**

Interested parties are defined under section 158 of the Act. To accept a representation from an interested party, the council must take the view that the person:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents persons in either of these groups.

Interested parties can also be a councillor or an MP.

## **Licensed family entertainment centres**

These premises require operating licences from the Gambling Commission. They will be able to offer gaming machines in categories C and D. Gaming machines are a form of gambling which is attractive to children and Licensed Family Entertainment Centres may contain machines of the Category D machines on which they are allowed to play as well as category C which they are not permitted to play on.

## **Lottery**

A 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

## **Operators**

Individuals or companies who provide facilities for gambling

## **Operating licence**

The Act requires that individuals or companies who intend to provide facilities for certain types of gambling must obtain an operating licence from the Gambling Commission. In general, these licences cover the principal commercial forms of gambling operation. Operating licences may be issued for the following forms of gambling a:

- casino operating licence
- bingo operating licence
- general betting operating licence
- pool betting operating licence
- betting intermediary operating licence
- gaming machine general operating licence (for an adult gaming centre)
- gaming machine general operating licence (for a family entertainment centre)
- gaming machine technical operating licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)
- gambling software operating licence (to manufacture, supply, install or adapt gambling software)
- lottery operating licence.

## **Premises licence**

A premises licence issued by a licensing authority authorises the provision of facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres.

## **Representations**

In dealing with applications the council is obliged to consider representations from two categories of person, referred to in the Act as interested parties and responsible authorities.

## **Tracks**

A track is any premises where a race or sporting event may take place. Facilities for betting on tracks may be permitted by a track premises licence, a temporary use notice or an occasional use notice.

## **Unlicensed family entertainment centres**

These premises can provide category D machines providing prizes of up to £5 cash or £8 in goods. Stakes are limited to 10p (or 30p for a goods prize). They can also offer prize bingo.

## 1.0 INTRODUCTION

### 1.1 Scope

1.1.1 Gambling activities are regulated by the Gambling Act 2005 ('the Act'). Vale of White Horse and South Oxfordshire District Councils are licensing authorities for the purposes of the Act. This 'Statement of Principles' ('policy') covers the districts of the Vale of White Horse District Council and South Oxfordshire District Council ('the councils'). The Act requires the councils to produce a statement of principles concerning their duties under the Act every three years.

1.1.2 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).

There is an obligation on the councils to provide information annually to the Gambling Commission to include details of licences, permits and registrations issued.

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 relevant council office.

## 2.0 BACKGROUND

### 2.1 Purpose of policy

It is expected that the councils regulate gambling in the public interest. The purpose of this policy is to ensure the councils' compliance with the Act, to protect the health and welfare of the general public and to assist businesses

by ensuring they are aware of the councils' requirements and the way in which the councils carry out their regulatory functions.

## 2.2 Persons consulted

The following bodies/persons were consulted on this policy and their views taken into consideration:

- the Chief Constable of Thames Valley Police
- businesses and individuals in the councils' areas who held a premises licence granted under the Act at the time consultation commenced
- one or more persons who appeared to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act. A full list of consultees is attached at Annex 2.

## 2.3 Declaration

This policy has been produced with due regard to the licensing objectives, the Gambling Commission's 'Guidance to Licensing Authorities 4<sup>th</sup> edition' and the responses received as part of the consultation process. The consultation ran for a four week period from 28 September 2015. The policy will be in force for no longer than three years and it may be reviewed and amended at any time within the three year period. 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 councils will consider the need to balance the legislation and the principles contained within the policy with the human rights of all parties, be they licence holders, applicants or interested parties.

## 2.4 Responsible authorities

2.4.1 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 local town council, parish council or parish meeting
- 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 (see 2.4.3)
- HM Revenue & Customs
- any other persons prescribed in regulations by the Secretary of State.

Contact details for the above authorities are included at Annex 2

2.4.2 In the event that the premises are a vessel, the following bodies are also responsible authorities:

- the Environment Agency
- the British Waterways Board
- the Secretary of State for Transport (who acts through the Maritime and Coastguard Agency)

2.4.3 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.

## **2.5 Interested Parties**

2.5.1 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) (see 2.5.4)

2.5.2 Whether or not 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 or not there is demand for the premises shall not be taken into account).

2.5.3 This list is not exhaustive and other factors may be taken into consideration if the councils deem it necessary.

2.5.4 The councils considers 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 head-teachers
- community groups
- charities
- faith groups
- medical practices
- bodies that exist to help people with gambling addictions such as GamCare or Gamblers Anonymous.

- 2.5.5 In other cases, the councils shall require written evidence that the person / association / body represent an interested party.

## **2.6 Licensing objectives**

In exercising their functions under the Act, the councils must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

The councils will aim to permit the use of premises for gambling as required by section 153 of the Act.

- 2.6.1 The councils can only make decisions based on the licensing objectives and not for unrelated moral, ethical or business reasons, for example, a general dislike of gambling, nuisance or expected demand.

## **2.7 Local area profile and operator risk assessments**

- 2.7.1 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.

- 2.7.2 The local area profiles will be made available to operators to develop their risk assessments as required from April 2016 under the revised code of practice published by the Gambling Commission.

- 2.7.3 Operators will be required to submit their risk assessments along with any applications for new premises licences, variations to existing licences or on request for any existing premises.

- 2.7.4 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.

## **2.8 Decision making and delegation of powers**

- 2.8.1 All applications for the grant 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 principles contained in section 153 of the Act. Responsible Authorities and Interested Parties may only make representations relevant to the licensing objectives listed at paragraph 2.6. For clarification, these are different to the licensing objectives of the Licensing Act 2003.

2.8.2 The councils expect applicants to show that they have policies and procedures in place to support the licensing objectives, for example; exactly how they intend to ensure that children cannot gamble in their premises. Applicants are required to consider the following steps in promoting all three objectives:

- proof of age schemes
- Closed Circuit Television (CCTV)
- supervision of entrances / gambling areas
- physical separation of areas (for example when gaming machines are provided in pubs where children are permitted or in gaming centres where children may be permitted to play on some but not all of the machines)
- location of and entry to premises
- notices / signage
- training for staff on challenging persons suspected of being under-age
- training for staff on how to recognise someone with or developing a gambling addiction and what action to take
- training for staff on the types of crime that may occur as part of gambling and what action to take
- specific opening hours (for example if the premises are sited near a school or job centre)
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

2.8.3 From 1 April 2016 any new applicant will be required to submit a risk assessment for their premises

2.8.4 The councils will not automatically refuse an application for the grant of a licence because a responsible authority or interested party has concerns relating to one of the licensing objectives, they will take into account any measures the applicant may offer to put into place to overcome the concerns.

2.8.5 The Act defines at what level decisions may be made within councils – see Annex 3. Where representations have been received and remain un-resolved to the satisfaction of all parties, a Licensing Acts Panel will hold a hearing to decide whether a licence, statement or club gaming permit will be granted.

2.8.6 Guidance on making applications for licences or permits, to make representations regarding application or to request a review can be found on the relevant council website or by contacting the licensing team.

## 2.9 Reviews of Premises Licences

- 2.9.1 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.
- 2.9.2 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).
- 2.9.3 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 regulations mentioned in paragraph 2.9.1.
- 2.9.4 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.
- 2.9.5 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.

2.9.6 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.

## **2.10 Appeals against a decision of the councils**

2.10.1 The Act details the process for appeals against the councils' decisions in regards to 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.

2.10.2 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).

## **2.11 Enforcement**

2.11.1 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.

2.11.2 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.

2.11.3 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.

- 2.11.4 The councils will endeavour to work with, and avoid duplication with, other regulatory regimes so far as possible.
- 2.11.5 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.

## 2.12 Exchange of information

- 2.12.1 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.
- 2.12.2 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)
- 2.12.3 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.
- 2.12.4 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.
- 2.12.5 Any information sharing between the councils and Thames Valley Police must also be carried out in accordance with the information sharing protocol under the Oxfordshire memorandum of understanding.
- 2.12.6 Any person wishing to obtain further information about their rights under the Data Protection Act 1998 or the Freedom of Information Act 2000 may view the councils' policies at [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk) or [www.southoxon.gov.uk](http://www.southoxon.gov.uk) or alternatively members of the public and businesses can also access information and advice regarding licensing by obtaining independent legal advice or contacting the following bodies:
- Local Government Regulation (formerly LACORS)  
[www.local.gov.uk](http://www.local.gov.uk)
  - DCMS (Department for Culture, Media and Sport)  
[www.culture.gov.uk](http://www.culture.gov.uk)

- Citizens Advice Bureau  
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

## 2.13 Application procedure

Applications for family entertainment centres, prize gaming and licensed premises gaming machine permits are to be made on the relevant council's forms available at either

[www.whitehorsedc.gov.uk/services-and-advice/business/licensing/gambling](http://www.whitehorsedc.gov.uk/services-and-advice/business/licensing/gambling)

or

[www.southoxon.gov.uk/services-and-advice/business/licensing/gambling](http://www.southoxon.gov.uk/services-and-advice/business/licensing/gambling)

For all other types of licences and permits, the standard forms are available from the Gambling Commission at:

<http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/DCMS-LA-forms/DCMS-Licensing-authority-forms.aspx>

Applicants must ensure that they are aware of what should accompany each application (for example a plan of the premises). Each of the websites mentioned details these requirements.

## 2.14 Fees

Maximum licence fees are set by the government; however each council sets its own fees up to these maximums. Fees set by the councils are subject to annual review. A list of current fees to accompany the different licence / permit applications can be found by accessing the councils' websites at either:

[www.whitehorsedc.gov.uk/services-and-advice/business/licensing/gambling](http://www.whitehorsedc.gov.uk/services-and-advice/business/licensing/gambling)

or

<http://www.southoxon.gov.uk/services-and-advice/business/licensing/gambling>

## 3. PERMITS

Please refer to [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) for the latest details on machine categories including maximum stakes and pay-outs permitted and the entitlement of certain premises to certain categories and numbers of machines. A list of entitlements as at January 2014 is included at Annex

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 also.

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).

### **3.1 Unlicensed family entertainment centre gaming machine permits (FECs)**

- 3.1.1 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.
- 3.1.2 The councils can grant or refuse an application for an FEC permit, but cannot attach conditions.
- 3.1.3 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 paragraph 2.8.2.
- 3.1.4 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 each be considered on their merits.
- 3.1.5 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.

### **3.2 (Alcohol) licensed premises gaming machine permits**

The Gambling Commission has published a number of 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: [http://www.gamblingcommission.gov.uk/publications\\_guidance\\_advic.aspx](http://www.gamblingcommission.gov.uk/publications_guidance_advic.aspx)

- 3.2.1 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 simply need to notify the council and pay the prescribed fee.
- 3.2.2 The councils 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 Act

- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

3.2.3 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.

3.2.4 As there may be children in some alcohol licensed premises, the councils expect applicants to pay particular attention to the example measures detailed in paragraph 2.8.2. in order to protect the children.

3.2.5 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.

3.2.6 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.

### **3.3 Club gaming and club machine permits**

3.3.1 The numbers and categories of machine permitted are different to non-clubs. Please refer to [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) for the latest maximum stakes and pay-outs permitted for each machine category and numbers of machine(s) permitted.

3.3.2 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.

3.3.3 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.

3.3.4 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. Bridge and whist clubs will be permitted, replicating the previous position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion, sports and social clubs and clubs with political affiliations.

3.3.5 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 or not a club is genuine, even if it has already been granted a club premises certificate under the Licensing Act 2003.

3.3.6 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 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.

3.3.7 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.

3.3.8 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

3.3.9 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 on the Gambling Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### **3.4 Prize gaming permits**

- 3.4.1 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.
- 3.4.2 Casinos, bingo premises, adult gaming centres and licensed family entertainment centres do not require a permit in order to offer prize gaming.
- 3.4.3 Travelling fairs do not require a permit in order to offer equal chance prize gaming, provided that taken together, the facilities for gambling are ancillary to the fair.
- 3.4.4 Children and young persons may participate in equal chance prize gaming only.
- 3.4.5 Applicants for a prize gaming permit should set out the types of gaming that they are intending 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.
- 3.4.6 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.

- 3.4.7 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.

## **4. PREMISES LICENCES**

### **4.1 Primary gambling activity**

4.1.1 Premises licences authorise the provision of gambling activities in:

- casinos
- bingo premises
- betting premises (including tracks and premises used by betting intermediaries)
- adult gaming centres and
- family entertainment centres.

4.1.2 Premises licences will be considered in accordance with the principles set out in paragraph 2.8.

### **4.2 Premises**

4.2.1 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. In determining whether or not the separation is genuine, the councils will base their decisions on the following:

- are the premises registered separately for business rates?
- are the premises owned by the same person?
- can each of the premises be accessed from the street or is access to one only via the other or another gambling premises?

4.2.2 Roping off 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.

- 4.2.3 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.

### **4.3 Location**

- 4.3.1 The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern

- schools
- vulnerable adult centres
- residential areas with a high concentration of children.

- 4.3.2 Much will depend upon the type of gambling that is proposed will be offered on the premises. The councils will consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant must demonstrate how they propose to overcome such concerns.

### **4.4 Conditions**

- 4.4.1 Conditions may be imposed upon a premises licence in a number of ways. These are:

- (a) mandatory – set by the Secretary of State, some set out in the Act and some to be prescribed in regulations, for all, or classes of licence
- (b) default – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the licensing authority
- (c) specific – conditions that can be attached to an individual licence by the licensing authority

- 4.4.2 Conditions will only be imposed to address specific risks under the licensing objectives. Any conditions imposed by the councils will only be considered where there is evidence of a risk to the licensing objectives and be proportionate to the circumstances that they are seeking to address. In particular, the councils will ensure that premises licence conditions:

- are relevant to the need to make the proposed building suitable as a gambling facility
- are directly related to the premises and the type of licence applied for
- are fairly and reasonably related to the scale of premises and
- are reasonable in all other respects.

4.4.3 Certain matters may not be the subject of conditions. These are:

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

## **4.5 Door supervisors**

4.5.1 It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the councils consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors they shall be licensed by the Security Industry Authority (SIA).

4.5.2 There is an exemption for 'in house' employees working as door supervisors at licensed casino or bingo premises, however 'contract' staff employed as door supervisors will need to be licensed by the SIA. The councils may still impose specific requirements on these unlicensed door supervisors if they considered it necessary at particular premises.

## **4.6 Adult gaming centres**

4.6.1 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.

4.6.2 In considering licence applications for adult gaming centres, consideration will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The councils will therefore expect applicants to

demonstrate that there will be sufficient measures in place to promote this objective.

## **4.7 Licensed family entertainment centres**

- 4.7.1 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 & D machines available to their customers.
- 4.7.2 Children and young persons will be able to enter licensed family entertainment centres and play on the category D machines. They will not be permitted to play category C machines.
- 4.7.3 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 separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
  - only adults are admitted to the area where the 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 prominently displayed notices indicating that access to the area is prohibited to persons under 18.

## **4.8 Tracks**

- 4.8.1 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).
- 4.8.2 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

- 4.8.3 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.
- 4.8.4 Holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to four gaming machines (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.
- 4.8.5 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.
- 4.8.6 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.
- 4.8.7 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.
- 4.8.8 The councils will accept occasional use notices for tracks in accordance with section 39 of the Act.

## **4.9 Casinos**

- 4.9.1 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.

4.9.2 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 or not 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).

4.9.3(a) **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 country 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.

4.9.3(b) **South Oxfordshire District Council:** Policy 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 not adopted a 'no casino' policy. As such, all applications received for a premises licence to operate a casino in the council area would be judged on their own merits, in accordance with paragraph 2.8 and the requirements set out in paragraph 4.9.4.

4.9.4 Applicants for casino licences are required to:

- submit a procedure with their application for the reporting of any suspicious activity
- follow a policy of requiring proof of identification to be shown on entering the casino in order to act as a deterrent to those considering using the casino for criminal activities (such as money laundering) and to effectively support gambling self-exclusion schemes
- detail any entertainment to be provided
- submit details of employee training to promote the licensing objectives
- submit a policy to promote the protection of children and vulnerable persons
- submit a policy regarding the identification of and interventions in force to aid problem gamblers
- set aside at least one 'training room' where customers can learn how to play the various games offered in a non-threatening environment. The room shall clearly display information on how and where help for problem gambling can be sought
- set aside a quiet area as a refuge from gambling. The room shall clearly display information on how and where help for problem gambling can be sought.

## 4.10 Betting premises

- 4.10.1 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.
- 4.10.2 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.
- 4.10.3 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.
- 4.10.4 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.
- 4.10.5 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.

## 4.11 Bingo

- 4.11.1 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.
- 4.11.2 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 applied to vary their licence to exclude an area of the existing premises from its ambit and then applied for a new premises licence, or multiple licences for that or those excluded areas.
- 4.11.3 The councils note the unusual circumstances in which the splitting of a pre-existing premise into two adjacent premises might be permitted and in particular that it is not permissible to exceed 20 per cent of the total number of B3 machines available for use in the premises.

4.11.4 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 of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- 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.

## 4.12 Temporary use notices

4.12.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.

4.12.2 There are a number of statutory limits concerning the use of temporary use notices. Please refer to [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) for details of the maximum numbers of days premises may be used and for other restrictions.

4.12.3 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).

4.12.4 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.

4.12.5 The councils will apply the principles set out in paragraph 2.6 of this statement to any consideration as to whether to issue a counter-notice.

#### **4.13 Provisional statements**

4.13.1 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 or not 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 in force but the application is for a different type of gambling.

4.13.2 An applicant need not hold an operating licence from the Gambling Commission before applying for a provisional statement and the councils shall not take into account the likelihood of an operating licence being granted in determining whether or not to grant the provisional statement.

4.13.3 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 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.

4.13.4 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).

#### **4.14 Travelling fairs**

- 4.14.1 The Act defines a travelling fair as, 'wholly or principally' providing amusements.
- 4.14.2 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).
- 4.14.3 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.
- 4.14.3 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.
- 4.14.4 The councils will liaise with neighbouring authorities to ensure that land used for fairs which crosses local authority boundaries is monitored.

**ANNEX 1**

**List of persons / bodies responding to the consultation on this policy**

<b>Organisation Details</b>	<b>Responding as:</b>
Association of British Bookmakers	Trade body

## ANNEX 2

### List of responsible authorities

The Responsible Authorities for the council areas under the Act, and their contact details are as follows.

Contact details may change, and other responsible authorities may be designated by regulations by the Secretary of State. For latest information, please check with the relevant council's licensing team.

		Contact details for preliminary discussions or follow-up enquiries
Responsible Authority	Address	Telephone, e-mail and website
The licensing authorities	Licensing Team Vale of White Horse District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 540534 <a href="mailto:licensing.unit@whitehorsedc.gov.uk">licensing.unit@whitehorsedc.gov.uk</a>  <a href="http://www.whitehorsedc.gov.uk/services-and-advice/business/licensing">www.whitehorsedc.gov.uk/services-and-advice/business/licensing</a>
	Licensing Team South Oxfordshire District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 540534 <a href="mailto:licensing@southoxon.gov.uk">licensing@southoxon.gov.uk</a>  <a href="http://www.southoxon.gov.uk/services-and-advice/business/licensing">www.southoxon.gov.uk/services-and-advice/business/licensing</a>
The planning authorities	Planning Vale of White Horse District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 540546 <a href="mailto:planning@whitehorsedc.gov.uk">planning@whitehorsedc.gov.uk</a>  <a href="http://www.whitehorsedc.gov.uk/services-and-advice/planning-and-building">www.whitehorsedc.gov.uk/services-and-advice/planning-and-building</a>
	Planning South Oxfordshire District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 540546 <a href="mailto:planning@southoxon.gov.uk">planning@southoxon.gov.uk</a>  <a href="http://www.southoxon.gov.uk/services-and-advice/planning-and-building">www.southoxon.gov.uk/services-and-advice/planning-and-building</a>
Environmental health	Environmental Protection Vale of White Horse District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 540555 <a href="mailto:env.health@southandvale.gov.uk">env.health@southandvale.gov.uk</a>  <a href="http://www.whitehorsedc.gov.uk/services-and-advice/environment">www.whitehorsedc.gov.uk/services-and-advice/environment</a>
	Environmental Protection South Oxfordshire District Council 135 Eastern Avenue, Milton Park, Milton, OX14 4SB	01235 520202 <a href="mailto:env.health@southandvale.gov.uk">env.health@southandvale.gov.uk</a>  <a href="http://www.southoxon.gov.uk/services-and-advice/environment">http://www.southoxon.gov.uk/services-and-advice/environment</a>

Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	0121 230 6666 <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a>  <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a>
Thames Valley Police	Chief Constable, Thames Valley Police Headquarters Oxford Road Kidlington OX5 2NX	01865 266000 <a href="mailto:licensing@thamesvalley.pnn.police.uk">licensing@thamesvalley.pnn.police.uk</a>  <a href="http://www.thamesvalley.police.uk">www.thamesvalley.police.uk</a>
Fire and Rescue Service	Oxfordshire Fire and Rescue Service Sterling Road Kidlington OX5 2DU	01865 842999 <a href="mailto:fire.service@oxfordshire.gov.uk">fire.service@oxfordshire.gov.uk</a>  <a href="http://www.oxfordshire.gov.uk/cms/public-site/fire-and-rescue-service">http://www.oxfordshire.gov.uk/cms/public-site/fire-and-rescue-service</a>
Oxfordshire Safeguarding Children Board	Oxfordshire Safeguarding Children Board c/o Children, Young People & Families Directorate Oxfordshire County Council, County Hall, New Road Oxford OX1 1ND	01865 815843 <a href="mailto:oscb@oxfordshire.gov.uk">oscb@oxfordshire.gov.uk</a>  <a href="http://www.oscb.gov.uk">www.oscb.gov.uk</a>
Revenue and Customs	Her Majesty's Revenue and Customs	<a href="https://www.gov.uk/contact-hmrc">https://www.gov.uk/contact-hmrc</a>

## ANNEX 3

### 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 licence		Where representations have been received and not withdrawn	Where no representations received or all have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or all have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or all have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where objections have been made and not withdrawn	Where no 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	

X indicates the lowest level to which decisions can be delegated

**ANNEX 4**

**Summary of gaming machine categories**

<b>Category of Machine</b>	<b>Maximum stake (from January 2014)*</b>	<b>Maximum prize (from January 2014)*</b>
<b>A</b>	Unlimited	Unlimited
<b>B1</b>	£5	£10,000
<b>B2</b>	£100 (in multiples of £10)	£500
<b>B3A</b>	£2	£500
<b>B3</b>	£2	£500
<b>B4</b>	£2	£400
<b>C</b>	£1	£100
<b>D – non-money prize (other than a crane grab, coin pusher, penny fall machines)</b>	30p	£8
<b>D – non-money prize (crane grab machine)</b>	£1	£50
<b>D money prize (other than coin pusher or penny falls machines)</b>	10p	£5
<b>D – combined money and non-money prize (other than a coin pusher or penny falls machines)</b>	10p	£8 (of which no more than £5 may be a money prize)
<b>D – combined money and non-money prize (coin pusher or penny falls machine)</b>	20p	£20 (of which no more than £10 may be a money prize)

ANNEX 5

Summary of machine provisions by premises

	Machine Category							
	A	B1	B2	B3	B4	C	D	
<b>Large casino</b> (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines: Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
<b>Small casino</b> (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines: Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
<b>Pre-2005 Act casinos</b> (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines) or any number of C or D machines instead						
<b>Betting premises and tracks occupied by Pool Betting</b>		Maximum of 4 machines categories B2 to D (except B3A machines)						
<b>Bingo Premises</b>					Maximum of 20% of the total number of machines available for use on the premises category B3 or B4	No limit on category C or D machines		
<b>Adult gaming centre</b>					Maximum of 20% of the total number of machines available for use on the premises category B3 or B4	No limit on category C or D machines		
<b>Family entertainment centre</b> (with premises licence)							No limit on category C or D machines	
<b>Family entertainment centre</b> (with permit)							No limit on Category D machines	
<b>Clubs or miners' welfare institute</b> (with permit)					Maximum of 3 machines in categories B3A or B4 to D*			
<b>Qualifying alcohol licensed premises</b>							1 or 2 machines of category C or D automatic upon notification	
<b>Qualifying alcohol licensed premises</b> (with gaming machine permit)							Number as category C or D machines on permit	
<b>Travelling Fair</b>							No limit on category D machines	
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>	

\*It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.