

LICENSING AND SAFETY COMMITTEE

21 NOVEMBER 2012

GAMBLING ACT 2005 – REVIEW OF COUNCIL STATEMENT OF GAMBLING POLICY

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Summary

The purpose of this report is to ask the Licensing and Safety Committee to consider amendments to the current Council Statement of Gambling Policy, which was approved at Full Council on 14 January 2010 for a period of 3 years.

1. Budget and Policy Framework

- 1.1 The existing Statement of Gambling Policy was approved at Full Council on 14 January 2010.
- 1.2 This is a policy framework document and the report proposes changes for recommendation to the Business Support Overview and Scrutiny Committee on 6 December 2012. The report will then need to be referred to Cabinet on 18 December 2012 and then Council on 24 January 2013 for approval in accordance with the Council's policy framework rules.

2. Background

- 2.1 The Gambling Act came fully into force in September 2007 although the "first appointed day" (when the Council could start to receive applications) was 31 January 2007. In preparation, each licensing authority was required to develop, consult on and publish a statement of its licensing policy. The existing statement sets out the principles, which the authority applies in exercising its licensing functions under the Act.
- 2.2 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are: -

- Preventing gambling from being a source of crime 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.

2.2 At its meeting on 24 July 2012 the Licensing and Safety Committee authorised officers to:

- a) amend the Statements of Policy for Licensing and Gambling in accordance with the changes in legislation and guidance issued,
- b) advertise and consult with all relevant interested parties;
- c) reported back to a future Licensing and Safety Committee, together with a revised version of the Statement of Policy for recommendation to Cabinet and Full Council for approval.

3. Effects of the Legislation

3.1 The Statement of Policy document along with the Gambling Act 2005 and the Objectives and Gambling Commission Guidance will all be referred to when considering applications in respect of the following:

- Premises licences (this includes casinos, bingo halls, adult gaming centres, family entertainment centres, race tracks and betting shops)
- Permits (licensed premises gaming machine permits, club permits, prize gaming permits, notification of two or less machines)
- Lotteries (small society lotteries, incidental non-commercial lotteries, private lotteries and customer lotteries)
- Temporary use notices and occasional use notices for short-term gambling events).

3.2 The Gambling Commission is responsible for granting operating licences and personal licences to commercial gambling operators and people working in the industry. It will also regulate certain lottery managers and promoters.

4. Risk Management

4.1 This triennial review of the policy statement is a key document in relation to the council's position in continuing to implement the Act's objectives and consideration of subsequent gambling applications.

5. Consultation

5.1 The following amendments to the Gambling Policy have been consulted on and are set out in full in the track changed version of the document at Appendix A: -

- Part A – General – This has been reformatted and minor general housekeeping amendments made.
- Part B (1) - Permits - Minor general housekeeping amendments made.
- Part B (2) – Premises Licences - Minor general housekeeping amendments made, section C Splitting Premises (added), section D Location (reworded), section F Duplication (added), section G Door Supervisors (reworded), and section J Provisional Statements (reworded).
- Part B (3) - Appendices – appendices in respect of Splitting Premises and Statement of Principles have now been included.

5.2 An extensive consultation exercise was undertaken during the period of 30 July to 22 October 2012 with the following bodies: -

- The Chief Officer of Police
- Other Council Departments
- Portfolio Holder
- Ward Councillors
- Persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
- Persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005
- A range of organisations including voluntary and community organisations, organisations working with people who are problem gamblers, advocacy organisations (such as the Citizens Advice Bureau), etc
- Businesses who are, or will be, holders of a premises licence
- The organisations named as responsible authorities in the Act.

5.3 In addition, notices inviting comment were placed in the press and copies of the document were placed at all council contact centres and offices and on the council's website.

5.4 No responses were received which required or requested any further amendments to the changes made to the document circulated for consultation.

6. Financial and legal implications

6.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.

6.2 The legal implications are contained within the body of the report. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.

6.3 The policy has been prepared taking account of the guidance issued by the Gambling Commission.

7. Recommendations

7.1 The Committee is asked to consider the amendments made and recommend that the Business Support Overview and Scrutiny Committee refer the amended policy to Cabinet and then Council in accordance with the policy framework rules.

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Background papers

None.

Medway Council

Statement of Gambling Policy (Gambling Act 2005)

As approved by the full Council on ~~14 January 2010~~XXXX
Published on ~~22 January 2010~~XXXX
Effective from ~~31 January 2010~~XXXX



Licensing Unit,
Gun Wharf,
Dock Road,
Chatham,
Kent ME4 4TR.

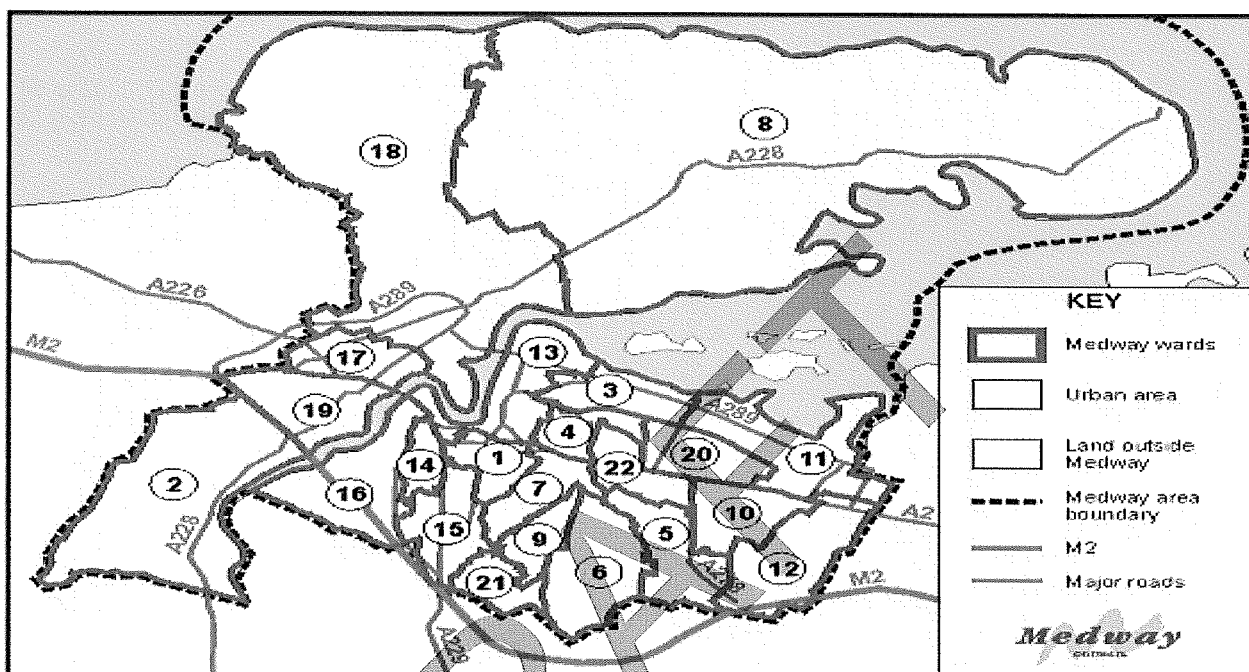
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PART A - General

1. Introduction

- 1.1 Medway Council is a Unitary Authority in North Kent, providing all local government services for a quarter of a million people in Medway, including the towns of Rochester, Strood, Chatham, Gillingham and Rainham and rural areas such as the Hoo Peninsula. In terms of areas it covers 80 square miles and is shown on the map below.



- | | | |
|---------------------------|---------------------------------|--------------------|
| 1. Chatham Central | 9. Princes Park | 16. Rochester West |
| 2. Cuxton and Halling | 10. Rainham Central | 17. Strood North |
| 3. Gillingham North | 11. Rainham North | 18. Strood Rural |
| 4. Gillingham South | 12. Rainham South | 19. Strood South |
| 5. Hempstead and Wigmore | 13. River | 20. Twydall |
| 6. Lordswood and Capstone | 14. Rochester East | 21. Walderslade |
| 7. Luton and Wayfield | 15. Rochester South and Horsted | 22. Watling |
| 8. Peninsula | | |

- 1.2 Medway Council is the Licensing Authority under the Gambling Act 2005.

2. The Licensing Objectives

- 2.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are: -

- Preventing gambling from being a source of crime 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”

2.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles that they proposed to apply when exercising their functions. This statement must be published at least every three years in line with legislation requirements. ~~The statement can and may also be reviewed from "time to time" and the amended parts re-consulted upon. The statement must then be re-published.~~

2.3 In determining its policy the licensing authority must have regard to the current Guidance and give appropriate weight to the views of those it has consulted. ~~Medway Council has consulted widely with persons taken from the following categories on the policy statement. The Gambling Act requires that the following parties be consulted by Licensing Authorities: -~~

- The Chief Officer of Police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

2.4 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each ~~Each application or representation will be considered on its own merits and according to in accordance with the statutory requirements of the Gambling Act 2005 and having regard to the Guidance issued by the Gambling Commission (the Guidance).~~

3. Declaration

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

4. Casinos

4.1 This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

4.2 This licensing authority is aware that where a licensing authority is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators who will want to operate the casino. In such situations this authority will observe the need for a 'competition' under Schedule 9 of the Gambling Act 2005 and in doing so observe appropriate regulations.

5. Credit

5.1 This licensing authority notes the Gambling Act does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection

in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines.

5.2 The Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises as regards credit.

6. Functions

6.1 Under the provisions of the Gambling Act 2005 this authority is responsible for the following functions: -

- Be responsible for the licensing of premises where gambling activities are to take place by issuing ***Premises Licences***
- Issue ***Provisional Statements***
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing ***Club Gaming Permits*** and/or ***Club Machine Permits***
- Issue ***Club Machine Permits*** to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed ***Family Entertainment Centres***
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Grant ***Licensed Premises Gaming Machine Permits*** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register ***Small Society Lotteries*** below prescribed thresholds
- Issue ***Prize Gaming Permits***
- Receive and Endorse ***Temporary Use Notices***
- Receive ***Occasional Use Notices***
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

	Function
Be responsible for the licensing of premises where gambling activities are to take place by issuing <i>Premises Licences</i>	Issue <i>Provisional Statements</i>
Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing <i>Club Gaming Permits</i> and/or <i>Club Machine Permits</i>	Issue <i>Club Machine Permits</i> to <i>Commercial Clubs</i>
Grant permits for the use of certain lower stake gaming machines at <i>unlicensed Family Entertainment Centres</i>	Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
Grant <i>Licensed Premises Gaming Machine Permits</i> for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are	Register <i>small society lotteries</i> below prescribed thresholds

required	
Issue <i>Prize Gaming Permits</i>	Receive and Endorse <i>Temporary Use Notices</i>
Receive <i>Occasional Use Notices</i>	Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
Maintain registers of the permits and licences that are issued under these functions	

6.2 The Gambling Commission / Gambling Appeals Tribunal functions are: -

- Issue, renewal & review of Operating Licences
- Issue Personal Licences
- Licence remote gambling through Operating Licences
- Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines
- Issue Codes of Practice
- Issue Guidance to Licensing Authorities
- Gambling Appeals Tribunal deals with appeals against Commission decisions

Function	Who deals with it
Issue and renewal of <i>Operating Licences</i>	Gambling Commission
Review <i>Operating Licences</i>	Gambling Commission
Issue <i>Personal Licences</i>	Gambling Commission
Issue <i>Codes of Practice</i>	Gambling Commission
Issue <i>Guidance to Licensing Authorities</i>	Gambling Commission
Licence remote gambling through <i>Operating Licences</i>	Gambling Commission
Issue licences in relation to the <i>manufacture, supply, installation, adaptation, maintenance or repair of gaming machines</i>	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

The Licensing Authority does not deal with remote gambling.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

7. Responsible Authorities

7.1 In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

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

- 7.2 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the following for this purpose: -

Children's Services
Medway Council
Gun Wharf
Dock Road
Chatham
ME4 4TR

8. Interested parties

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

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

- 8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Act Gambling Act 2005 to determine whether a person is an interested party. These principles are: -

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision-making. It will however consider the following as per the Gambling Commission's Guidance to local authorities: -

~~This authority will not apply a rigid rule to its decision-making. It will however consider the following as per the Gambling Commission's Guidance to local authorities:-~~

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for 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) 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.

- 8.3 The Gambling Commission has emphasised to licensing authorities, that 'demand' cannot be a factor in decisions.
- 8.4 Guidance also states that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives.
- 8.5 The Gambling Commission has also recommended that the licensing authority state that interested parties can include trade associations and trade unions, and residents and tenants' associations. This authority will not however generally view these bodies as interested parties unless they represent a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- 8.6 Interested parties can be represented by other persons such as Councillors, MP's etc. Care should be taken when approaching Councillors that they are not part of the Licensing & Safety Committee dealing with the licence. If there are any doubts then please contact the Committee Section of this authority on telephone number 01634 332013.

9. Exchange of Information

9.1 In holding and exchanging information with other bodies during the exercise of its functions under the Gambling Act 2005 the licensing authority will act in accordance with the provisions of the Gambling Act 2005, the Data Protection principles as set out in the Data Protection Act 1998 and its duties under the Freedom of Information Act 2000.

~~Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.~~

9.2 The licensing authority will have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter as well as complying with any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

~~The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.~~

It should be noted that there are sections of the Gambling Commission's Guidance for local authorities, which relate to Information Exchange.

The sections are:

- "As applicants for premises licences (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating

licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant. If during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay”

- “Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. (Though if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.)”
- “If it comes to the attention of licensing authorities that Alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes and that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission.”

10. Enforcement

10.1 The Kent & Medway Licensing Regulatory Steering Group has formulated an Enforcement Protocol which ~~each~~ which the majority of Licensing Authorities (including Medway) and Responsible Authority has agreed. The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues.

10.2 In accordance with the Guidance ~~T-~~ this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible and will adopt a risk-based inspection programme.

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

~~In accordance with the requirements of Gambling Act 2005 this authority have determined the following principles to be observed with regards to the inspection of premises and prosecution of offences.~~

This Licensing authority's principals are that:

~~It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be: -~~

- **Proportionate** - regulators should only intervene, where necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Accountable** - regulators must be able to justify decisions, and be subject to public scrutiny;

- **Consistent** - rules and standards must be joined up and implemented fairly;
 - **Transparent** - regulators should be open, and keep regulations simple and user friendly;
 - **Targeted** -regulation should be focused on the problem, and minimise side effects
- 10.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which is authorised.
- 10.5 The Gambling Commission will be the enforcement body for the Operator and Personal Licences.

PART B - Individual factors to consider

~~The Gambling Commission's Guidance for licensing authorities states the following: - The 1st edition of the Gambling Commission's Guidance for licensing authorities states the following:-~~

"The licensing authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permission and matters that it will consider relevant when determining whether to review a licence. This is where considerations such as the proximity of gambling premises to school and vulnerable adult centres, or to residential areas where there maybe a high concentration of families with children, should be detailed (where they are relevant). Any such policy must, however, come with the qualification that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, that will have to be taken into account. "

~~The following paragraphs endeavour to meet this request:- The paragraphs below address this guidance: -~~

1. Permits **A - Unlicensed Family Entertainment Centre gaming machine permits (FEC) (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit.

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals. ~~(paragraph 18(4)).~~

For initial applications, the Licensing Authority does not have to have regard to the licensing objectives but does need to have regard to any Gambling Commission guidance.

The Gambling Commission's Guidance for local authorities states: "~~In their three year licensing policy statement, a licensing authority's statement may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues. licensing authorities will want to give weight to child protection issues. Further guidance on the information that should be obtained from the applicant and others will be provided in the next version of this guidance.~~" (24.6)

The Guidance also states the ~~licensing authority can grant or refuse an application for a permit, but cannot add conditions.~~ "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued. Licensing authorities might wish to consider asking applicants to demonstrate: -

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes" (24.7)

This licensing authority adopted a statement of principles, which is at Appendix 4.

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

B - (Alcohol) Licensed premises gaming machine permits (Schedule 13 Para 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if: -

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any

relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” (This licensing authority considers that “such matters” will be decided on a case by case basis but that if any general themes arise it will endeavour to provide examples of such in this licensing policy statement by way of a revision).

An example of this is as follows: -

If an application is seeking numerous gaming machines and in this Licensing Authority’s opinion granting the application would change the nature of the gambling facilities, for example to a facility which could be perceived as an arcade this authority would not consider an application for a licensed premises gaming machine permit to be suitable for this type of venue.

Applicants wishing to apply for numerous machines are advised to cover the relevant principles and licensing objectives set out at appendix 3 within their application.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

C - Prize Gaming Permits (Statement of Principles on Permits - Schedule 14 Para 8 (3))

The Gambling Act 2005 states that a Licensing Authority may “prepare a ‘statement of principles’ that they propose to apply in exercising their functions under this Schedule” which, “may in particular specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

The Guidance states: “In their Licensing Authority Statement of Policy, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, Medway Council will want to give weight to child protection issues and will ask the applicant to set out the types of gaming that he or she is intending to offer. The applicant should be able to demonstrate that: -

- That they understand the limits to stakes and prizes that are set out in Regulations; and

- ~~That the gaming offered is within the law”.~~

This licensing authority has prepared a statement of principles which is at Appendix 4

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

It should be noted whilst there are conditions in the Gambling Act 2005 that the permit holder must comply with; the licensing authority cannot attach conditions. The conditions in the Act are: -

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and participation in the gaming must not entitle the player to take part in any other gambling.

D - Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Guidance for local authorities states: “Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is restricted to bridge and whist but there is no need for a club to have an alcohol licence.” Gambling Commission Guidance for local authorities states: “Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. The Guidance also makes it clear that “Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members’ club and may grant the permit if the majority of members are over 18.”

A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

~~The Guidance also makes it clear that “Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members’ club and may grant the permit if the majority of members are over 18.”~~

This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that: -

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police

It should be noted that there is a 'fast-track' procedure available for premises that hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under Section 266 of the Act, schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

2. Premises Licences

A - Decision making - general

Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions, which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

As regards licence conditions, the Gambling Commission Guidance for local authorities states, "Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address... In particular, licensing authorities should ensure that the 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 and type of premises; and
- Are reasonable in all other respects”

The Commission also adds “The licensing authority should take decisions on individual conditions on a case by case basis, although this will be against the background of any general policy set out in this guidance or their own licensing policy statement.”

This licensing authority is in agreement with these statements by the Gambling Commission.

There are also conditions, which the licensing authority cannot attach to premises licences, which are: -

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

The Gambling Commission has also emphasised to local authorities, that ‘demand’ cannot be a factor in decisions.

B - “premises”

Premises are defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as ~~the taking into consideration Guidance issued by the Gambling Commission states in its Guidance for local authorities, it “will always be a question of fact in the circumstances.” The Gambling Commission does not~~ however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission’s Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, licensing authorities “should be aware ~~that~~ of the following: -

- the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and
- entrances and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not

'drift' into a gambling area." In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

- Customers should be able to participate in the activity named on the premises licence".

This licensing authority will also take note of the Gambling Commission's Guidance to local authorities that: "Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act."

C – Splitting Premises

This Licensing Authority has set out its expectations for applications being made to split a premises into areas for the purpose of numerous applications.

Details of the measures we would expect to see covered for this type of application are set out at appendix 3

D - Location

This licensing authority notes the Gambling Commission's Guidance for local authorities, which ~~states~~ states, "Licensing authorities ~~will~~ may need to consider the location of premises in the context of this licensing objective [*Preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime*]. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors."

The Commission also states in its Guidance: "For example, a licensing authority statement of policy could and should, set out the general principles that the licensing authority will apply when determining whether the location of proposed gambling premises is acceptable (with or without conditions) in light of the licensing objectives. For example, a licensing authority statement of policy might set out that the authority will consider very carefully whether applications for premises licence in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. Any such policy must; however, come with the qualification that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account." This licensing authority will adhere to this advice.

~~If an application for a licence or permit is received in relation to premises that are in close proximity to a school or similarly premises dealing with vulnerable persons or in an area noted for particular problems with crime, for example, this~~

~~authority will expect the applicant to demonstrate that suitable controls have been put into place to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors”.~~

~~It must, however, be noted that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.”.~~

D-E - Planning

Planning and licensing are different regulatory systems and will be dealt with separately. As the Gambling Commission’s Guidance states: “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

This authority will though listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise.

F – Duplication

In accordance with the Guidance this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

E-G - Door Supervisors

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

Any person employed to fulfil a condition on a premises licence that requires door supervision should hold a relevant licence, issued by the Security Industry Authority (SIA).

~~It is to be noted that door supervisors at licensed casino or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act.~~

~~It is not considered that there are any existing premises within the Medway area that would require door supervisors. However, in the event that Casino premises operate in the area, this authority would require that door supervisors be present during operational times.~~

F.H- Licensing objectives

This licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are provided with regard to the licensing objectives.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

This authority supports The Gambling Commission views in its guidance "disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it."

Ensuring that gambling is conducted in a fair and open way

The licensing authority would not expect to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. "

In relation to the licensing of tracks the licensing authority role will be different from other premises, in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable." This licensing authority understands that there may be further guidance from the Gambling Commission.

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

This licensing authority notes that "The objective talks of protecting children from being "harmed or exploited by gambling", but in practice that often means preventing them from taking part in or being in close proximity to gambling..."

This authority has also noted that the Gambling Commission Guidance states "Licensing authorities will need to consider whether specific measures will be needed to protect children on particular categories of premises. This may include requirements such as supervision of entrances; segregation of gambling from areas frequented by children and supervision of gaming machines in non-adult gambling specific premises. These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days) and in the regional casino, where children will be permitted in non-gambling areas."

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for

regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider the objective on a case-by-case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

This licensing authority will pay particular attention to any Codes of Practice, which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must: -

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.”

G-I - Reviews

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the following matters:

- it is in accordance with any relevant code of practice issued by the Gambling Commission
- it is in accordance with any relevant guidance issued by the Gambling Commission
- it is reasonably consistent with the licensing objectives and
- it is in accordance with the authority’s statement of licensing policy

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

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

H-J - Provisional Statements

This licensing authority notes that the Guidance for the Gambling Commission, which states:

“As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be

used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. An authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence. "An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The intention behind part 8 of the Act is the reference to "the premises" is to premises in which gambling may now take place. Thus a licence to use premises for gambling should only be issued in relation to premises that are ready to be used for gambling. This is why the Act allows an operator to apply for a provisional statement if the building is not yet complete, needs alteration, or he does not yet have a right to occupy it"

- "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. For example, the fact that a wall needed painting would not stop a full assessment of the premises as gambling premises, and in such circumstances it would probably be wrong to insist that the applicant applied for a provisional statement rather than a premises licence."
- "Once an operator has completed a building, the licensing authority will be able to consider a premises licence application for it."
- "Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, Category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements." (in relation to Provisional Licences)

In terms of representations about premises licence applications, following the grant of a provisional statement, the Gambling Commission's Guidance states: "If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises is made subsequently in relation to the same premises". "No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances". "In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters: -

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the authority's opinion reflect a change in the operator's circumstances"
- (c) Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision".

This authority has noted the Gambling Commission's Guidance that "A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law."

I-K - Adult Gaming Centres (AGC)

This licensing authority particularly notes the Gambling Commission's Guidance that states: "No-one under the age of 18 is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport."

J-L - (Licensed) Family Entertainment Centres

This licensing authority will, as per the Gambling Commission's guidance refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

K-M - Tracks

This licensing authority is aware that the Gambling Commission may provide specific guidance as regards tracks. We have taken note of the following Guidance ~~from issued by the Gambling Commission:—~~in this regard.

- ~~"Only one premises licence may be issued for any particular premises at any time... There is one exception to this rule, namely a track (i.e. a horse race course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track... "The Act sets out that there will be a main (betting premises) licence for the track, and in addition subsidiary premises licences for other gambling activities may be issued. The normal limitations in terms of access by children and young persons will apply, although in relation to a premises licence in respect of a track, children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place. This is subject to the rule that children and young persons may not enter any areas where gaming machines (other than category D machines) are provided... "In principle there is no reason why all types of gambling should not co-exist upon a track, but authorities will want to think about how a third licensing objective is delivered by the co-location of premises. As with the granting of multiple licence in a single building, licensing authorities will need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter."~~
- ~~"Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although may have one), the premises licence will need to contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting. The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on~~

the track will need to hold (whether a general betting operating licence, or a pool betting operating licence). But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.”

- “Special rules apply to applicants for a premises licence in relation to a track. Most importantly, as noted above, the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licences (sic) then authorises anyone upon the premises with an operating licence to offer betting facilities.”
- “the secondary aspect to this rule is that each individual operator who comes onto the track on race days does not need to hold a premises licence. Instead, he will be covered by the umbrella of the premises licence held by the track operator.”
- It is understood from the Gambling Commission’s Guidance that it plans to issue guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will take note of this guidance. This licensing authority will also, as per the Gambling Commission’s Guidance, consider the location of gaming machines at tracks. Children as young persons are not prohibited from playing category D gaming machines on a track. We also note that the Commission has stated: “applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded.”

Licensing authorities have a power under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Gambling Commission’s Guidance will be noted in that it states: “...In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.”

N – Bookmakers/Betting Shops

The Licensing Authority particularly notes the Gambling Commission's guidance. No one under the age of 18 is permitted to enter a bookmakers/betting shop. Licensing Authorities will wish to have particular regard to the location and supervision of entry to such premises to minimise the opportunities for children to gain access.

It is expected that staffing levels will be in place to monitor the betting area and in particular the gaming/betting machines as well as provide staff at the counter to take bets.

L - Betting machines

~~This licensing authority is aware that, as explained in the Gambling Commission's Guidance for local authorities states: "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons."~~

M-O - Bingo

The Licensing Authority is aware and will take notice of the Guidance issued by the Gambling Commission in relation to Bingo.

~~This licensing authority notes that the Gambling Commission's Guidance states:~~

~~-~~

~~"Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission's website"~~

P - Betting machines

This Licensing Authority is aware that, as explained in the Gambling Commission's Guidance for local authorities states: "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons."

N-Q - Temporary Use Notices

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building / site (see Gambling Commission's Guidance for Local Authorities).

O-R - Occasional Use Notices

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

P-S - Travelling Fairs

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

Appendix 1

Responsible Authorities Contact Details

Licensing Authority
Medway Council Licensing Unit
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR.
Tel: 01634 337110306000

Head of Environmental Health
Medway Council
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR.
Tel: 01634 331105331105

Email: licensing@medway.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6666
Fax: 0121 233 1096
Email:
info@gamblingcommission.gov.uk

The Administrator
Children Services
Medway Safeguarding Children Board
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR.
Tel: 01634 336329

Police Licensing Enforcement Officer
Kent Police
Medway Police Station

Chief Fire Officer
Dartford Group Fire Safety Office
Kent Fire and Rescue Service

Purser Way
 Gillingham
 Kent ME7 1NE
 Tel: 01634 792337/792388
 Email:
licensing.medway@kent.pnn.police.uk

Dartford Fire Station
 Watling Street
 Dartford
 Kent DA2 6EG
 Phone: 01322 224229
 Email:
dartford.firesafety@kent.fire-uk.org

Development & Building Control
 Manager
 Medway Council
 Gun Wharf
 Dock Road
 Chatham
 Kent ME4 4TR.
 Tel: 01634 331700

HM Revenue and Customs
 National Registration Unit
 Portcullis House
 21 India Street
 Glasgow G2 4PZ
 Phone: 0141 553633
 Email:
nru.betting&gaming@hmrc.gsi.gov.uk

In relation to a vessel, but no other premises, responsible authorities also include Navigation Authorities. This will include: -

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

Appendix 2

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

<u>MATTER TO BE DEALT WITH</u>	<u>FULL COUNCIL</u>	<u>SUB-COMMITTEE OF LICENSING & SAFETY COMMITTEE</u>	<u>OFFICERS</u>
<u>Final approval of licensing policies</u>	X		
<u>Policy not to permit casinos</u>	X		
<u>Fee Setting (when appropriate)</u>	X		
<u>Application for premises licences</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/representations have been withdrawn</u>
<u>Application for a variation to a licence</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/representations have been withdrawn</u>
<u>Application for a transfer of a licence</u>		<u>Where representations have been received from the Commission or responsible authorities</u>	<u>Where no representations received from the Commission or responsible authorities</u>

<u>Application for a provisional statement</u>		<u>Where representations have been received and not withdrawn</u>	<u>Where no representations received/ representations have been withdrawn</u>
<u>Review of a premises licence</u>		X	
<u>Application for club gaming /club machine permits</u>		<u>Where objections have been made and not withdrawn</u>	<u>Where no objections made/objections have been withdrawn</u>
<u>Cancellation of club gaming/ club machine permits</u>		X	
<u>Applications for other permits</u>			X
<u>Cancellation of licensed premises gaming machine permits</u>			X
<u>Consideration of temporary use notice</u>			X
<u>Decision to give a counter notice to a temporary use notice</u>		X	

Appendix 3

SPLITTING PREMISES

Bingo

In submitting an application to split the premises it will be expected that the following measures are in place:

- The primary activity of bingo should be available in all areas proposed.
- The gaming machines must be an ancillary attraction to the premises.
- A seating area must be provided for a minimum of eight people for the use and promotion of playing bingo. Full details of systems or machines used for playing bingo in these areas must be submitted with the application, such as hand held machines.
- Separation of the premises must be clearly defined. It would be expected that a minimum requirement will be five foot (1.524m) high, clear Perspex barriers surrounding the premises where there are no fixed walls. Entrance and exit for the separate premises must be clearly marked on the plans and be of a size to comply with fire safety legislation, especially if occupancy levels have already been set for the building. A copy of plans must be submitted to the fire authority.
- Each separate premises will require a notice (of similar size to the fire exit sign) that clearly defines that they are separate premises, for example by giving them a name such as Zone 1.
- The premises should comply with the mandatory conditions and individual conditions relevant to the type of gambling premises.

- Measures to help with the supervision of the extra premises: either an increase in staffing levels to permanently monitor these locations or a comprehensive CCTV system which does not block the line of sight and a mix of static and floating staff covering the whole site.
- All legal notices must be displayed in each of the separate premises and not just at the entrance to the building.

No separate premises should be created at the entrance of the building. These areas must be kept clear of machines so as to not block or obstruct the view of staff who are monitoring people entering the premises. People waiting to get into the premises must not be able to start using the facilities of the premises until they have been checked by staff.

Adult Gaming Centres

In submitting an application to split the premises, it will be expected that the following measures are in place:

- Separation of the premises must be clearly defined. A minimum requirement will be 5ft high (1.54m) clear Perspex barriers surrounding the premises where there are no fixed walls. Entrances and exits for the separate premises must be clearly marked on the plans and of a size to comply with fire safety legislation, especially if occupancy levels have already been set for the building. There must be a distance of 6ft 7in (2m) between partitions that is unlicensed for any form of gambling activity. A copy of plans must be submitted to the fire authority.
- Each separate premises will require a notice (of similar size to the fire exit sign) that clearly defines that they are separate premises, for example by giving them a name, such as "Zone 1".
- Each premises must comply with the mandatory conditions and individual conditions relevant to the type of gambling premises.
- Measures to assist with the supervision of these extra premises: either an increase in staffing levels to monitor these locations permanently or a comprehensive CCTV system which does not block the line of sight and a mixture of static and floating staff covering the whole site.
- All legal notices should be displayed in each of the separate premises and not just at the entrance to the building.

An application to vary the existing gaming premises licence and the application(s) for new premises must be submitted at the same time.

Where the operator of an existing AGC premises licence applies to vary the licence and acquire an additional AGC premises licence, it is not permissible for all of the gaming machines under category B3 or B4 to be grouped together within one of the licensed premises.

Family Entertainment Centre

In submitting an application to split a family entertainment centre, stronger criteria will be expected and the following measures must be in place:

- Any location that is intended to be licensed under another type of gambling premises licence will require a separate entrance from the outside, with no doors or access to the rest of the building.
- Walls must be floor to ceiling.

- Permanent members of staff must be in the new section at all times it is trading.
- CCTV must be installed.
- There must be a minimum of 2m (6.56ft) between the new separate building and the licensed Family Entertainment Centre, which will be unlicensed for any forms of gambling activity. A copy of plans must be submitted to the fire authority.

Applications to vary the existing premises licence and the application(s) for new premises must be submitted at the same time.

Appendix 4

Statement of Principles For Unlicensed Family Entertainment Centres,

Gaming Machine Permits & Prize Gaming Permits

Gambling Act 2005

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1. The Gambling Act 2005

Unless otherwise stated any references in this document to the council is to Medway Council as the licensing authority.

The Act requires the council, as the licensing authority, to aim to permit the use of premises for gambling in so far as the authority thinks it:

- In accordance with a relevant code of practice
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the licensing authority policy issued under 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.

2. Purpose of this document

This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC), licensed premises gaming machine permit or prize gaming under the Gambling Act 2005.

The Licensing Authority fully endorses the licensing objectives detailed above and expects all applicants to work in partnership to promote these objectives through clear and effective management of each gambling operation whether in respect of a permit or premises licence.

In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with the Medway Council Statement of Gambling Policy and Principles. – Gambling Act 2005.

The purpose of the document is to clarify measures that this Licensing Authority will expect applicants to demonstrate when applying for either of these permits so the council can determine the suitability of the applicant and the premises for a permit.

Within this process this Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit
- They have considered and are proposing suitable measures to promote the licensing objectives and they have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

3. Unlicensed family entertainment centres

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines together with various other amusements such as computer games and "penny-pushers".

The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' that does require a premises licence because it contains both category C and D gaming machines.

Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. This Licensing Authority will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.

In line with the Act, while this Licensing Authority cannot attach conditions to this type of permit, it can refuse applications if it is not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application. Applicants only need to address the "Statement of Principles" when making their initial applications and not at renewal time. (Permits are granted for a period of ten years.)

4. Licensed Premises Gaming Machine Permits

The term 'licensed premises gaming machine permit' is one defined as the premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises, without the requirement that alcohol is served only with food and there must be a bar for serving alcohol to customers on the premises. The gaming machines must be sited within the licensed area.

The premises can only be authorised for Category C and D gaming machines.

All alcohol licensed premises that provide gaming machines for use on the premises must comply with any relevant Code of Practice issued by the Gambling Commission under Section 24 of the Gambling Act 2005.

In line with the Act, while this Licensing Authority cannot attach conditions to this type of permit, it can refuse applications if it is not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application. Applicants only need to address the "Statement of Principles" when making their initial applications and not at renewal time.

5. Prize gaming permits

Section 288 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. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where bingo is offered and the prizes are displayed.

A prize gaming permit is a permit issued by this Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permits holders must comply. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize) and participation in the gaming must not entitle the player to take part in any other gambling

In line with the Act, while this Licensing Authority cannot attach conditions to this type of permit, it can refuse applications if it is not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

Applicants only need to address the "Statement of Principles" when making their initial applications and not at renewal time. Permits are granted for a period of ten years.

6. Statement of Principles for UFEC gaming machine permits and prize gaming permits

Supporting documents

This Licensing Authority will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over)
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- An enhanced criminal record certificate. (this should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission a plan of the premises to which the permit is sought showing the following items:

- The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned and the particular type of machines to be provided (eg. Slot machines, penny falls, cranes)
- The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
- The positioning and types of any other amusement machines on the premises
- The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area the location of any

ATM/cash machines or change machines the location of any fixed or temporary structures such as columns or pillars

- The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- The location of any public toilets in the building.

(Unless agreed with this Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100)

7. Child protection issues

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

This Licensing Authority will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures/training for staff as regards the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- Employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- Display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- Maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises (The register should be used to detect any trends which require attention by the management of the premises.)
- Ensure all young children are accompanied by a responsible adult
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

8. Protection of vulnerable persons.

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons.

This Licensing Authority will assess these policies and procedures on their merits, however they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

9. Other miscellaneous issues

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the interior and exterior of the premises clean and tidy
- Ensure the external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths
- Restrict normal opening hours to 8.45am to midnight daily
- Not permit any person who is drunk and disorderly or under the influence of drugs, to enter or remain on the premises
- Take such steps as are reasonably practicable to eliminate the escape of noise from the premises
- Ensure, where possible the external doors to the premises remain closed, except when in use, by fitting them with a device for automatic closure or by similar means
- Ensure that the premises are under the supervision of at least one responsible, adequately trained person at all times the premises are open

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

Applicants may obtain an enhanced Criminal Records Bureau disclosure on application to Disclosure Scotland on 0870 609 6006 or online at www.disclosurescotland.co.uk