

COUNCIL

21 JANUARY 2016

GAMBLING ACT 2005 – REVIEW OF COUNCIL STATEMENT OF GAMBLING POLICY (POLICY FRAMEWORK)

Portfolio Holder:	Councillor Jane Chitty, Planning, Economic Growth and Regulation
Report from:	Perry Holmes, Assistant Director (Legal & Corporate Services)
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Summary

The purpose of this report is to ask the Council to consider and approve amendments to the current Council Statement of Gambling Policy, which was approved at Full Council on 24 January 2013 for a period of 3 years.

The Policy has been reviewed by the Licensing and Safety Committee, Business Support Overview and Scrutiny Committee and Cabinet prior to submission to Council, details of which are set out in the main body of the report.

1. Budget and Policy Framework

- 1.1 The original Statement of Gambling Policy was approved at Full Council on 14 January 2010.
- 1.2 This is a policy framework document and final approval is a matter for Full Council. In accordance with the policy framework rules, the report has been considered by the Licensing and Safety Committee on 2 September 2015, the Business Support Overview and Scrutiny Committee on 8 October 2015 and Cabinet on 27 October 2015.

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.

2.3 At its meeting on 24 March 2015 the Licensing and Safety Committee authorised officers to:

- a) amend the Statements of Policy for Gambling in accordance with the changes in legislation and guidance issued,
- b) circulate details of the draft document to the existing chair and spokespersons prior to consultation,
- c) advertise and consult with all relevant interested parties;
- d) report 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 Medway's draft statement of policy takes into account the Gambling Commissions draft guidance to Licensing Authorities (5th Edition) consulted on earlier this year, but yet to be confirmed, that set out the

principle guidance to local councils on gambling related matters. The drivers for the proposed amendments to the guidance are the need to:

- reflect recent changes to the social responsibility provisions within the licensing conditions and codes of practice.
- promote collaborative working between licensing authorities and local gambling operators to facilitate a coordinated approach to local issues
- continue the positive partnership working between the Commission and licensing authorities
- provide greater clarity about the wide range of powers afforded to licensing authorities to manage local gambling regulation through measures such as their statements of licensing policy.

- 5.2 In the past a national template was used for statements of policy. However, such a template is now seen to no longer be suitable to adequately reflect local concerns, risks and features of the gambling landscape – for example, demographics, socio-economic profile and what mix of gambling is provided or indeed desired.
- 5.3 To make full use of this important licensing tool, the policy statement has been drawn up in a way that reflects the local area and views about how to manage gambling locally and those nuances and local understanding of risk should be reflected in the policy statement. Risk in this context includes actual, potential and possible future emerging risks to the licensing objectives.
- 5.4 In line with developing a more local focus for statements of policy, and reflecting emerging good practice the development of local area profiles, which draw data about risk from a number of bodies, including responsible authorities such as the Safeguarding Board (or local equivalent) and the police may be included or referred to. This information in part has already been collated for other purposes and has helped inform the policy statements in relation to gambling, for example, the location of sensitive buildings and demographics.
- 5.5 Following revisions to Licence conditions and codes of practice (LCCP), operators with premises licences will have an obligation to produce a local risk assessment, which will assist LAs when they are considering applications etc (similar to the way an operating schedule under the Licensing Act 2003 provides information about the local premises).
- 5.6 All non-remote licensees 'must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy' (social responsibility (SR) code 10.1.1).
- 5.7 Local risk assessments must be reviewed when there are significant changes in local circumstances (including those identified in a licensing authority's statement of licensing policy) or at the premises, or when applying for a new licence or variation of a licence (SR code 10.1.2).

- 5.8 This new requirement is a social responsibility code provision and therefore constitutes a mandatory requirement for licensees. The new requirement is supplemented by an ordinary code provision which states that ‘...licensees should share their risk assessment with licensing authorities when applying for premises licence or applying for a variation to existing licensed premises, or otherwise on request’.
- 5.9 Local risk assessments take effect from **6 April 2016**. This is to ensure that operators are able to make reference to an LA’s own local area profile* and the new statement before conducting their premises specific risk assessment.

*<http://www.medway.gov.uk/planningandbuilding/planningpolicy/factsandfigures/areaprofiles.aspx>

- 5.10 A copy of the revised statement is shown at **Appendix A**.
- 5.11 A consultation exercise was undertaken during the period of 29 June 2015 to 14 August 2015 with the bodies as listed at **Appendix B**.
- 5.12 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.
- 5.13 A favourable response was received from Coral. No responses were received which required or requested any further amendments to the changes made to the document circulated for consultation.
- 5.14 A Diversity Impact Assessment (DIA) has been undertaken on the proposed policy (**Appendix C**). The DIA has indicated that there are no actions required, alternatives proposed or adverse effects to be addressed

6. Licensing and Safety Committee

- 6.1 The Licensing and Safety Committee met on 2 September 2015. Members discussed the current legislation and updated guidance and asked questions with regard to gambling premises.
- 6.2 Decision: That the draft Council Statement of Gambling Policy, together with the comments of the Licensing and Safety Committee, be referred to the Business Support Overview and Scrutiny Committee with a recommendation that it refers the revised policy to the Cabinet for endorsement and Council for approval in accordance with the policy framework rules.

7. Business Support Overview and Scrutiny Committee

- 7.1 The Business Support Overview and Scrutiny Committee met on 8 October 2015. Members considered a report regarding amendments to the current Council Statement of Gambling Policy, which was approved at Full Council on 24 January 2013 for a period of 3 years.
- 7.2 The Assistant Director – Legal and Corporate Services advised Members that since the introduction of a new national rule which meant that a customer cannot pay more than £50 for a single play on a B2

(fixed odds betting) machine unless certain conditions were met there had been a 69% reduction in the number of plays on B2 terminals and a 67% reduction in stakes over £50.

- 7.3 Members welcomed this but felt more still needed to be done and it was proposed that a letter be sent to the Minister for Sport on a cross party basis asking for the maximum stake allowed on B2 fixed odds betting terminals to be dramatically reduced. A figure of £2 was suggested as an indication.
- 7.4 Members supported the revised changes to the policy.
- 7.5 A Member queried what would happen if an intoxicated person in a public house tried to gamble. In response the Committee were advised that it was a matter for the licensee to intervene.
- 7.6 Decision: The Committee agreed to:
- a) endorse the amendments made and refer the amended policy to Cabinet and then Council in accordance with the policy framework rules.
 - b) write, on a cross party basis, to the Minister of Sport calling for a significant reduction in the maximum stake size allowed in respect of B2 fixed odds betting terminals.
 - c) place on record its appreciation of the work of the Assistant Director – Legal and Corporate Services and his team in addressing the negative effects of gambling on individuals and communities.

8. Cabinet

- 8.1 The Cabinet met on 27 October 2015 and noted the comments of the Licensing and Safety Committee and the Business Support Overview and Scrutiny Committee. The Cabinet also endorsed the amendments made and recommended the amended policy, as set out in Appendix A to the report, to Council in accordance with the policy framework rules.

9. Financial and legal implications

- 9.1 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.
- 9.2 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.
- 9.3 The policy has been prepared taking account of the guidance issued by the Gambling Commission.

10. Recommendation

- 10.1 The Council is asked to approve the amended Statement of Gambling Policy, as set out in Appendix A to the report, in accordance with the policy framework rules.

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List of Appendices

Appendix A – Draft Statement of Policy
Appendix B – List of bodies, organisation consulted with
Appendix C – Diversity Impact Assessment

Background papers

None



GAMBLING ACT 2005

STATEMENT OF POLICY AND PRINCIPLES

2016 - 2019

Consultation Draft
Version 1.0

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PART A - INTRODUCTION AND DECLARATION

The Gambling Act 2005 (“the 2005 Act”) has provided for a regime for regulating gambling and betting, which was introduced throughout England and Wales from 1st September 2007. Apart from the National Lottery and spread betting, gambling and betting is regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in the provision of gambling and betting.

Medway Council (“The Council”) along with other Local Licensing Authorities, is required, under the 2005 Act, to licence premises where gambling is taking place. The Council is also required to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

Licensing Authorities are required by Section 349 of the 2005 Act to publish a statement of the principles that they propose to apply when exercising their functions in accordance with the legislation. This statement must be published at least every 3 years and this is the latest revision. It is a “living” document that must be regularly reviewed. If this document (with the exception of appendices) is amended, further consultation and re-publication is required.

Medway Council consulted widely in relation to this statement before adopting and publishing the final version. The Gambling Act 2005 requires that the following parties be consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area; and
- 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.

This latest draft of the policy contains amendments in line with the proposed amended guidance. Due to the fact that it contains such minor amendments, consultation on this occasion has been with responsible authorities and public for a limited period of up to 6 weeks between 29 June 2015 and 14 August 2015.

DECLARATION: In producing the Final Statement, Medway Council as the Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses from those consulted on this statement.

This Statement of Principles was approved at a meeting of the Full Council on (date to be inserted). It was then published via Medway Council’s Website on (date to be inserted).

It should be noted that this Policy Statement 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, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

1. THE LICENSING OBJECTIVES

In exercising most of its functions under the Gambling Act 2005, the Council as the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the 2005 Act. These 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 licensing authority is aware that, in making decisions in respect of premises licences and temporary use notices, section 153 of the Act prescribes that it should “aim to permit” the use of premises for gambling in so far as it is satisfied that the application is:

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

This licensing authority particularly notes the Gambling Commission’s Guidance to local authorities in respect of these objectives along with the principles to be applied by the licensing authority and any other relevant legislation such as the Human Rights Act 1998.

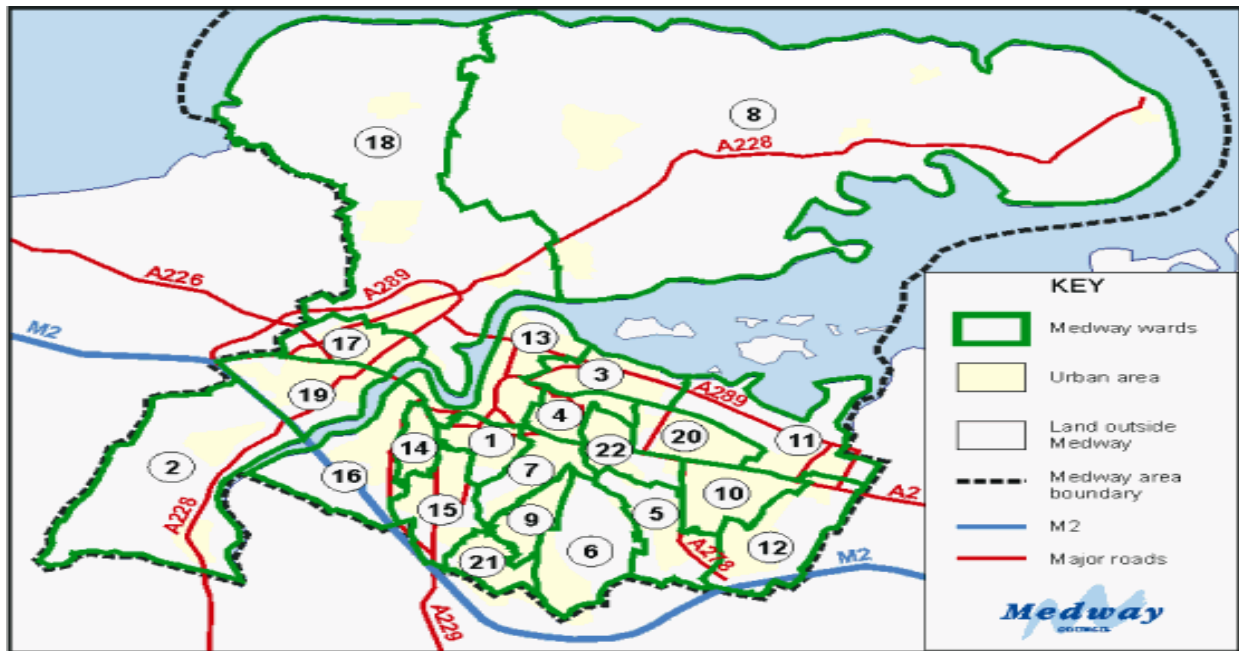
To assist licensing authorities the Gambling Commission has produce licence conditions and codes of practice (LCCP). The codes specify a number of requirements, many of which relate to social responsibility issues that may aid any concerns about matters such as protection of the young and vulnerable.

2. MEDWAY COUNCIL

Medway Council is a Unitary Authority in North Kent, providing all local government services for a quarter of a million people. Medway is made up of the towns of Strood, Rochester, Chatham, Gillingham and Rainham and more rural areas, including the Hoo Peninsula. Situated in Kent in the south-east of England, the area has plenty of green spaces, excellent facilities and easy access to the national motorway and rail networks.

Medway Council provides on its website up-to-date details on a number of key topics covering demographic, social and economic trends through data tables and information notes. Also included are area profiles, which together constitute a statistical ‘picture’ of Medway and sub areas within it, in order to understand, what is distinct and what variations occur across the area.

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 | | |

3. AUTHORISED ACTIVITIES

‘Gambling’ is defined in the 2005 Act as either gaming, betting or taking part in a lottery:

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

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

Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's Licensing Team where appropriate.

3.1. LICENCES UNDER THE 2005 ACT

The 2005 Act provides for 3 categories of licence as follows:

- Operating licences
- Personal licences
- Premises licences

The Council will be responsible for the issue of Premises licences. The Gambling Commission will be responsible for the issue of operating and Personal licences.

4. THE GAMBLING COMMISSION

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

The Commission issues guidance in accordance with Section 25 of the 2005 Act about the manner in which Licensing Authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission also issues Codes of Practice under Section 24 about the way, in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities. The Gambling Commission can be contacted at:

Gambling Commission, Victoria Square House, Victoria Square, BIRMINGHAM B2 4BP

Website: www.gamblingcommission.gov.uk

Email: info@gamblingcommision.gov.uk

5. RESPONSIBLE AUTHORITIES.

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority **about the protection of children from harm.**

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this licensing authority designates the Safeguarding Children Board, Children's Services for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available from the Council's website www.medway.gov.uk

6. INTERESTED PARTIES

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 application 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)"*

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

- Each case will be decided upon its merits and Medway Council will not apply rigid rules to its decision-making;
- It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities in respect of people living close to the premises and the nature and scope of business interests that could be affected.
- It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and where appropriate organisations such as, but not limited to partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected by the application. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. Usually, a letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach their local ward councillor to ask them to represent their views, then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact democratic services.

7. THE COUNCIL'S FUNCTIONS

The Council, in its capacity as a Licensing Authority, is 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) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section on exchange of information)
- Maintain registers of the permits and licences that are issued under these functions
- The exercise of its powers of compliance and enforcement under the 2005 Act in partnership with the Gambling Commission and other relevant responsible authorities.

NB *The National Lottery is regulated by the National Lottery Commission, Remote Gambling is dealt with by the Gambling Commission and Spread Betting is regulated by the Financial Services Authority.*

8. EXCHANGE OF INFORMATION

Licensing authorities are required to include in their statements 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. It is also required to include the principles it will apply in exercising its functions under section 350 of the Gambling Act 2005 with respect to the exchange of information between it and other persons listed in Schedule 6 of the Gambling Act 2005.

The principle 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 any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be detailed in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and withheld from publication on the grounds of personal safety.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

9. ENFORCEMENT

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 in respect of the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

Medway Council has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005, is to ensure compliance with the premises licences and other permissions, which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

Medway Council also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

**PART B - PREMISES LICENCES:
CONSIDERATION OF APPLICATIONS**

10. General Principles

Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions, which are 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.

(i) Decision-making

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.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' and also that unmet demand is not a criterion for a licensing authority.

(ii) Definition of "premises"

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: *"In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."*

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware 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 preventing them from being 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;
- Entrances to 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 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.

The Guidance also gives a list of factors, which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises, which holds a gambling premises licence;

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises;

Betting Shops

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed;

Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

(iii) Premises "ready for gambling"

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a *provisional statement* should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process: -

- Firstly, whether the premises ought to be permitted to be used for gambling; and
- Secondly, whether 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.

Applicants should note that this 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.

More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance produced by the Gambling Commission.

(iv) Location

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any

such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning

The Gambling Commission Guidance to Licensing Authorities states:

'In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. This authority will not take into account irrelevant matters as per the above guidance.'

In addition this authority notes the following excerpt from the Guidance:

'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.'

(vi) Duplication with other regulatory regimes

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It 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.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Licensing objectives

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

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

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling

Premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

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

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

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

This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek 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 gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.*" This licensing authority will consider this licensing objective on a case-by-case basis with regard to the individual circumstances of each application.

Licence Conditions

Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures, which may be required for buildings, which are

subject to multiple premises licences. Such measures may include:

- the supervision of entrances;
- segregation of gambling from non-gambling areas frequented by children; and
- the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises, which is separated from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

It is noted that there are 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.

Door Supervisors

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

11. Adult Gaming Centres

Adult gaming centres (AGCs) were introduced by the act. Persons operating an AGC must hold a gaming machines general operating licence from the commission and must seek a premises licence from the licensing authority. They are permitted to make available for use on the premises a number of Category B gaming machines not exceeding 20 per cent of the total number of gaming machines, which are available for use upon the premises. No person under the age of 18 is permitted upon such premises, nor is the sale or consumption of alcohol.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / help line numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

The question of sub-division of such premises has become an issue and been the subject of Gambling Commission Guidance. There must be no direct entry from one adult gaming centre into another. This Authority will take note of the guidance issued in respect of such applications.

12. (Licensed) Family Entertainment Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / help line numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating 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.

13. Casinos

No Casinos resolution - 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. Any such decision will be made by the Full Council.

14. Bingo premises

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

'Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.'

15. Betting premises

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, 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 people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

Voluntary Partnership Agreement - There is in place a voluntary partnership agreement between the Council, the ABB and gambling and gaming operators in Medway. The voluntary partnership agreement sets out the background and scope of the agreement, what is expected of Gambling Operators, what is expected of the Council, some Key Performance Indicators, and what the existing requirements are on Gambling Operators and the Council.

As part of this voluntary agreement, gambling operators will pilot a new self-exclusion scheme. Where a customer indicates that they wish to self-exclude from a particular gambling premises, assistance to complete a self-exclusion form will be readily available. The individual will be required to provide two photographs to be included in the scheme and to make it practical to enforce, and personal details will be retained (subject to compliance with the Data Protection Act 1998). Customers that self-exclude at one gambling premises will be encouraged to self-exclude from other participating gambling premises in Medway.

The self-exclusion pilot that started in early December 2014 in Chatham will run for two years. The Voluntary Partnership Agreement and the progress of the self-exclusion pilot scheme will be monitored by the multi agency Medway Responsible Gambling Partnership, with a decision being taken on the need to extend, roll out to the rest of Medway or not to proceed. This includes representatives of the Council, the Gambling Operators, the Association of British Bookmakers, the Police, the Community Safety Partnership and Safer Medway Partnership.

16. Credit/ATMs

Section 177 of the 2005 Act requires, in relation to casino and bingo premises licences, that a condition be placed on the licence prohibiting the provision of credit in connection with gambling authorised by the licence or any involvement with the provision of credit.

Section 177 does not, however, prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) providing the arrangement is subject to a requirement that the licensee has no other commercial connection with the machine provider in relation to gambling (aside from the agreement to site the machines) and does not profit from the arrangement, nor make any payment in connection with the machines.

17. Tracks

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

18. Applications and plans

The Gambling Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Local Risk Assessments - The Commission's Licence Conditions and Codes of Practice (LCCP), which were revised and published in February 2015, formalise the need for operators to consider local risks. The Commission's

Social responsibility (SR) code 10.1.1 requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's policy statement.

Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement

- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

Local Area Profile – Medway Council has produced a collection of area profiles, which together constitute a statistical ‘picture’ of Medway and sub areas within it, in order to understand, what is distinct and what variations occur across the area. These span a range of socio-economic themes, including: demography, business and employment, deprivation and infrastructure. These can be found on www.medway.gov.uk

Licensing will also produce risk assessments and as these are developed they will also appear on the council website.

19. Travelling Fairs

This licensing authority is responsible for deciding 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 is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, 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.

20. Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

21. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- 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 principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to 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 particular premises licence, or a particular class of premises licence on the basis of any reason, which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are: -

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

PART C - PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

22. UNLICENSED FAMILY ENTERTAINMENT CENTRE (FEC) GAMING MACHINE PERMITS

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. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

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.

"In its policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues."

Guidance also states: *"...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:*

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

It should be noted that a licensing authority cannot attach conditions to this type of permit.

23. Statement of Principles

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

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- That staff are trained to have a full understanding of the maximum stakes and prizes;
- An awareness of local school holiday times and how to notify the local education office should truants be identified.

This Licensing Authority will accept evidence of compliance with the Code of Practice for FECs issued by the British Amusement Catering Trade Association (BACTA) as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above requirements.

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

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

24. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

There is provision in the 2005 Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. Under section 284 of the 2005 Act 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.
- An offence under the Gambling Act has been committed on the premises.

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

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 generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and we will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that children/young people under 18 years of age do not have access to the adult-only gaming machines. This authority will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Measures, which will satisfy this Authority that there will be no access, may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18 years of age. Notices and signage present by machines are also recommended. With regard to the protection of vulnerable persons applicants may wish to consider

The provision of information leaflets/help line numbers for such organisations as Gam Care.

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

This Licensing Authority recognises that some alcohol - licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. It is likely that any such application would need to be made and dealt with as an Adult Gaming Centre premises licence.

The Licensing Authority can decide to grant an 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. 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.

25. ADMINISTRATIVE MATTERS

Details of our scheme of delegations in respect of the licensing function under the Gambling Act is shown at **Appendix 2**

26. PRIZE GAMING PERMITS

Prize gaming may be provided in bingo premises as a consequence of their Bingo Operating Licence. Any type of prize gaming may be provided in Adult Gaming Centres and licensed Family Entertainment Centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, as long as none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

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”*.

This licensing authority has prepared a Statement of Principles, which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- That they understand the limits to stakes and prizes that are set out in Regulations;
- That the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

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

27. CLUB GAMING AND CLUB MACHINES PERMITS

Members' clubs (but not commercial clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit allows the premises to provide:

- Up to three machines of categories B, C or D.
- Equal chance gaming.
- Games of chance as set out in regulations.

A Club Gaming Machine Permit will enable the premises to provide up to three machines of categories B, C or D.

This Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for Members' clubs contained in Sections 266 and 267 of the 2005 Act. Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless gaming is permitted by separate regulations. It is anticipated that this will cover 'bridge' and 'whist' clubs and this will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Gambling Commission's Guidance also notes that licensing authorities may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a members 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 2005 Act or a breach of permit has been committed by the applicant while providing gaming facilities
- A permit held by the applicant has been cancelled in the previous 10 years.
- An objection has been lodged by the Gambling Commission or the Police.

Clubs, which hold a Club Premises Certificate under the Licensing Act 2003, are entitled to benefit from a

'fast-track' application procedure. Under this procedure there is no opportunity for objections to be made by the Gambling Commission or the Police and the grounds upon which a Licensing Authority can refuse a permit are reduced. Grounds for refusal 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;
- That a club gaming permit or club machine permit issued to the applicant in the last 10 years has been cancelled.

There are statutory conditions on Club Gaming Permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a Code of Practice about the location and operation of gaming machines.

28. SMALL SOCIETY LOTTERIES

Under the gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. Medway Council will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories:

- Licensed lotteries (requiring an operating licence from the Gambling Commission);
- Exempt lotteries (including small society lotteries registered with Medway Council)

Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- Small society lotteries;
- Incidental non-commercial lotteries;
- Private lotteries;
- Private society lottery;
- Work lottery;
- Residents' lottery;
- Customers' lottery.

Advice regarding the definitions of the above exempt lotteries is available from the Gambling Commission website:

http://www.gamblingcommission.gov.uk/gambling_sectors/lotteries.aspx

29. TEMPORARY USE NOTICES

'Temporary Use Notices' allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

30. 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. This Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

31. SUMMARY OF SOME TERMS UNDER THE GAMBLING ACT 2005

These pages are not part of the statement of principles, as the definitions will be defined nationally, but are included in this document to assist the reader. This document should be read in conjunction with the Gambling Act 2005 and Gambling Commission Guidance to Local Authorities.

32. RESPONSIBLE AUTHORITIES

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

Section 157 of the 2005 Act defines those authorities as:

- The Gambling Commission
- The Police
- The Fire Service
- The Local Planning Authority
- Environmental Health
- Medway Council Children's Services, Safeguarding Children Board.

- HM Revenue and Customs
- A Licensing Authority in whose area the premises are situated (that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two)

Contact details for the above responsible authorities are shown at **Appendix B**

33. CATEGORIES OF CASINO

Casino games are defined by the Act to mean a game of chance, which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

34. CATEGORIES OF GAMING MACHINE

A summary of gaming machine categories along with the entitlements of current machine categories with the maximum stakes and prizes that apply by premises type is set out in a table at **Appendix C**.

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

APPENDIX A

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OF LICENSING & SAFETY COMMITTEE	OFFICERS
Final approval of licensing policies	X		
Policy not to permit casinos	X		
Fee Setting (when appropriate)	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authorities	Where no representations received from the Commission or responsible authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX B

Responsible Authorities Contact Details

Licensing Authority
Medway Council Licensing Unit
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR.
Tel: 01634 306000
Email: licensing@medway.gov.uk

Head of Environmental Health
Medway Council
Gun Wharf
Dock Road
Chatham
Kent ME4 4TR.
Tel: 01634 331105

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

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

CATEGORIES OF GAMING MACHINE

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

NUMBER OF GAMING MACHINES BY PREMISES TYPE

Type of Authorisation	Machine Categories Permitted						
	A	B1	B2	B3	B4	C	D
Large Casino	x	Maximum of 150 machines (subject to a machine/table ratio) Any combination from Categories B1/B2/B3/B4/C/D					
Small Casino	x	Maximum of 80 machines (subject to a machine/table ratio) Any combination from Categories B1/B2/B3/B4/C/D					
Bingo Premises	x	x	x	*20% of total gaming machines		Unlimited	
Betting Premises	x	x	Maximum of 4 machines Any combination from Categories B2/B3/B4/C/D				
Betting (track)	x	x	As Betting above but only if the licence-holder also holds a Pool Betting Operating Licence				
Adult Gaming Centre	x	x	x	*20% of total gaming machines		Unlimited	
Family Entertainment Centre	x	x	x	x	x	Unlimited	
Family Entertainment Centre with Gaming Machine Permit	x	x	x	x	x	x	Unlimited
Gaming Machine Permit or Club Machine Permit	x	x	x	Maximum of 3 machines Members clubs - from Cat. B3a/B4/C/D Commercial clubs – from Cat. B4/C/D			
Alcohol-licensed premises Automatic entitlement	x	x	x	x	x	1-2 machines L.A. must be notified	
Alcohol-licensed premises Gaming Machine Permit	x	x	x	x	x	As allowed by permit	
Travelling funfair (no authorisation required)	x	x	x	x	x	x	Unlimited

*Premises in existence before 13 July 2011 are entitled to make available eight category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

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Responsible Authorities

Building and Development
Children Board
Fire
Gambling Commission
HM Revenue and Customs
Planning
Police
Trading Standards

WARD COUNCILLORS

To all councillors

Companies providing help to people

Age Concern Chatham
Age UK Medway
Citizens Advice Bureau – Medway Office
Samaritans

Gambling Help

Gamcare
National Problem Gambling Clinic
Responsible Gambling Trust

The Licensed Premises Trade regarding Machines

Admiral Taverns
Enterprise Inns
Greene King
LVA
Shepherd Neame

Gambling Companies

Betfred
Coral
Gala Bingo
Gala Coral Group
Ladbrokes Customer Services
Metrobet
Moto Hospitality Limited
Paddy Power
Quicksilver
William Hill

Companies providing Gaming Machines in the area

Ivor Thomas Amusements Ltd
Leisure Link and Inspired Gaming

TITLE <i>Name/description of the issue being assessed</i>	Gambling Act Policy Statement
DATE <i>Date the DIA is completed</i>	22 September 2015
LEAD OFFICER <i>Name and title of person responsible for carrying out the DIA.</i>	Alison Poulson
1 Summary description of the proposed change <ul style="list-style-type: none"> • <i>What is the change to policy/service/new project that is being proposed?</i> • <i>How does it compare with the current situation?</i> 	
<p>The changes to the policy recommended are to make the document more customer friendly, reflect current legislation and updated guidance on the matters the Council can have regard to when considering an application and to confirm our arrangements for ensuring that premises comply with their license conditions and responsibilities.</p> <p>The purpose of this statement is to review and publish the principles that they propose to apply when exercising their functions. The licensing objectives are to: -</p> <ul style="list-style-type: none"> • Prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime • Ensure that gambling is conducted in a fair and open way • Protect children and other vulnerable persons from being harmed or exploited by gambling” <p>Medway Council is the Licensing Authority under the Gambling Act 2005.</p>	
2 Summary of evidence used to support this assessment <ul style="list-style-type: none"> • <i>Eg: Feedback from consultation, performance information, service user records etc.</i> • <i>Eg: Comparison of service user profile with Medway Community Profile</i> 	
<p>A consultation exercise on the draft revisions was undertaken during the period of 29 June 2015 to 14 August 2015 with all ward councillors, responsible authorities, main licence holders, gambling companies, companies providing gaming machines and organisations providing help and advice.</p> <p>The draft policy is then put forward to the Licensing and Safety committee for recommendation to BSD overview and scrutiny then on to cabinet and final approval at full council.</p>	

3 What is the likely impact of the proposed change?

Is it likely to :

- *Adversely impact on one or more of the protected characteristic groups?*
- *Advance equality of opportunity for one or more of the protected characteristic groups?*
- *Foster good relations between people who share a protected characteristic and those who don't?*

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			
Disability			
Gender reassignment			
Marriage/civil partnership			
Pregnancy/maternity			
Race			
Religion/belief			
Sex			
Sexual orientation			
Other (eg low income groups)			

4 Summary of the likely impacts

- *Who will be affected?*
- *How will they be affected?*

Following the review and consultation there is no change to the policy or the way it will be applied. The statement will be updated to make it clearer and easier to understand.

As such there will be no adverse impact.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- *Are there alternative providers?*
- *What alternative ways can the Council provide the service?*

- *Can demand for services be managed differently?*

No actions, alternatives proposed or adverse effects to be addressed.

6 Action plan

- *Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence*

Action	Lead	Deadline or review date
No actions required		

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- *to proceed with the change, implementing action plan if appropriate*
- *consider alternatives*
- *gather further evidence*

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

For the proposed revisions to be approved, advertised and implemented and publication of Statement on Council website

8 Authorisation

The authorising officer is consenting that:

- *the recommendation can be implemented*
- *sufficient evidence has been obtained and appropriate mitigation is planned*
- *the Action Plan will be incorporated into service plan and monitored*

Assistant Director

Perry Holmes

Date

22 September 2015