

CABINET

10 JULY 2018

GAMBLING ACT 2005

REVIEW OF STATEMENT OF GAMBLING POLICY (POLICY FRAMEWORK)

Portfolio Holder: Councillor Jane Chitty, Planning, Economic Growth and Regulation

Report from: Perry Holmes, Chief Legal Officer

Author: Mark Lees, Licensing Manager (Shared with Gravesham)

Summary

Licensing authorities are required to develop, consult on, and publish a Statement of Gambling Policy every three years that sets out the principles they propose to apply in exercising their functions under the Gambling Act 2005.

Medway Council's current policy was approved at Full Council on 21 January 2016 and consequently needs to be revised and re-published prior to 20 January 2019 for a further three-year period.

The purpose of this report is to ask the Cabinet to consider the consultation responses and proposed amendments to the draft Policy and to recommend approval of the Statement of Gambling Policy to Full Council, following initial consideration by the Licensing and Safety Committee and the Business Support Overview and Scrutiny Committee.

1. Budget and Policy Framework

1.1 The Statement of Gambling Policy ("the policy") under the Gambling Act 2005 is a policy framework document and final approval is a matter for Full Council following consideration by the Licensing and Safety Committee, the Business Support Overview and Scrutiny Committee and Cabinet.

2. Background

2.1 The Gambling Act 2005 ('the Act') came into full force in September 2007, although the "first appointed day" (when the Council could start to receive applications) was 31 January 2007.

- 2.2 Licensing authorities are required to develop, consult on, and publish a Statement of Gambling Policy every three years that sets out the principles they propose to apply in exercising their functions under the Gambling Act 2005 during that period.
- 2.3 Separately from this, licensing authorities may review and alter their statement of policy during that three year timeframe; however this does not replace the requirement set out in paragraph 2.2.
- 2.4 The current policy was approved at Full Council on 21 January 2016 and consequently needs to be revised and re-published prior to 20 January 2019 for a further three-year period.
- 2.5 A revised draft of the policy and proposed consultation methodology were put before the Licensing and Safety Committee at their meeting of 7 March 2018, at which they agreed:
- a) to authorise officers to place the draft policy on the Council's website, advertise it, and consult with all relevant interested parties, and;
 - b) that the results of the consultation be reported back to a future Licensing and Safety Committee together with a revised draft Statement of Gambling Policy, prior to consideration by Business Support Overview and Scrutiny Committee and Cabinet and recommendation to Full Council for approval.

3. Effects of the Policy and Legislation

- 3.1 In exercising their functions under the Act, licensing authorities must have regard to the three statutory gambling licensing objectives: -
- 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.
- 3.2 The Council will refer to its policy, the Gambling Act 2005, promotion of the licensing objectives, and the Statutory Guidance to Licensing Authorities 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, notifications 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).

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

4. Draft Policy

4.1 The draft policy that went out to consultation (attached at **Appendix 4**) seeks to:-

- Provide the Licensing Authority with a secure foundation on which to determine applications in a way that clearly promotes the licensing objectives, protects residents and allows the vision for the council to be achieved through a clear, fair and robust licensing process;
- reflect legislative changes and the Licensing Authority's approach to new initiatives, and;
- help ensure that applicants have a clear understanding of the council's expectations and of the impacts of their licensed business or proposed activities could have on others and what they must do to enhance the positive impacts and mitigate any detrimental impacts.

4.2 The main changes set out in the draft policy are listed at **Appendix 2**.

5. Consultation

5.1 A comprehensive consultation exercise was carried out in accordance with the Act and Statutory Guidance over a 12 week period between 12 March and 4 June 2018.

5.2 An extensive list of interested parties were contacted directly and invited to comment on the revised draft policy. In addition, public notices inviting comment were placed on the Council's website and in the local press. A full list of consultees is attached to this report at **Appendix 1**.

5.3 Copies of the draft policy were made available to view electronically online and in hard copy at all Council contact centres and offices.

5.4 Despite the long consultation period and wide-reaching methodology, only three responses were received; a comprehensive response from Gosschalks Solicitors on behalf of the Associate of British Bookmakers (ABB) containing a number of suggested minor amendments; a response from William Hill containing two suggestions; and a favourable response from Strood Conservative Club with no changes proposed.

6. Evaluation of Responses

- 6.1 An evaluation of the responses has been conducted by the Licensing Manager. In each case, recommendations as to whether or not to amend the policy statement and, if so, to what extent have been considered. The Licensing and Safety Committee considered the responses and recommendations at its meeting on 26 June 2018 and instructed the Licensing Manager to amend the draft policy accordingly (see section 8 below for more details). The draft policy has now been updated accordingly (tracked changes).
- 6.2 For completeness, these recommendations are attached at **Appendix 3**.

7. Impact of the Government's response to the consultation on proposals for changes to Gaming Machines and Social Responsibility Measures

- 7.1 The Government recently announced that they will, through the introduction of secondary legislation, reduce the maximum stakes on Fixed Odds Betting Terminals from £100 to £2.
- 7.2 In anticipation of this, a footnote has been added to Appendix C of the Policy, showing a table of gaming machine stakes and prizes, to advise that these values are subject to change.

8. Licensing and Safety Committee – 26 June 2018

- 8.1 The Licensing and Safety Committee considered this report on 26 June 2018 and agreed to:
- 8.1.1 Note the minor administrative change to Appendix C of the Policy, as outlined in section 7 of this report;
- 8.1.2 Note the recommendations set out in Appendix 3 and instruct the Licensing Manager to amend the draft policy in accordance with the recommendations;
- 8.1.3 Recommend that the Business Support Overview and Scrutiny Committee refer the revised policy to the Cabinet for consideration and to Council for approval in accordance with the policy framework rules.

9. Business Support Overview and Scrutiny Committee – 5 July 2018

- 9.1 The Business Support Overview and Scrutiny Committee will consider this report on 5 July 2018 and its comments will be reported to the Cabinet separately.

10. Risk Management

- 10.1 This review of the Statement of Gambling Policy is a key document in relation to the Council's position in continuing to implement the Gambling Act's objectives and consideration of subsequent licensing applications. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.

11. Financial and legal implications

- 11.1 There are no direct financial implications for Medway Council concerning this matter at present.
- 11.2 If, at any time in the future, the policy was subject to legal challenge, i.e. judicial review resulting from inappropriate wording, there could be costs associated with this process.
- 11.3 The policy has, however, been prepared taking account of the guidance issued by the Gambling Commission in order to ensure best practice and mitigate the risk referred to in 9.2.
- 11.4 The Authority's Statement of Gambling Policy provides the framework on which the Licensing Service under the Gambling Act 2005 is administered. This policy is not only important in setting out the licensing authority's approach to the Gambling Act; it will also be considered and referred to by a Magistrates' Court on appeal. The Magistrates' Court may decide to depart from the policy if they have good reason for doing so.
- 11.5 The Magistrates' Court may also decide that an appealed decision of the Authority was not reflective of the policy and that no good reason was given by the authority to depart from the policy when making that decision. In that case, the appealed decision may be referred back to the local Authority to reconsider in line with its policy.

12. Recommendations

- 12.1 The Cabinet is asked to note the minor administrative change to Appendix C of the Policy as outlined in section 7 of this report.
- 12.2 The Cabinet is asked to consider the comments of the Licensing and Safety Committee and Business Support Overview and Scrutiny Committee.
- 12.3 The Cabinet is asked to recommend the Draft Statement of Gambling Licensing Policy 2019-22, as set out in Appendix 4 to the report, to Council for approval in accordance with the policy framework rules.

13. Suggested reasons for decision

- 13.1 The Statement of Gambling Policy sets out how the Council will regulate licensable activities, as required by the Gambling Act 2005.

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Appendices

Appendix 1 - List of Consultees

Appendix 2 - Report on Changes Proposed by Officer

Appendix 3 - Evaluation of Consultation Responses

Appendix 4 - Draft Statement of Gambling Licensing Policy 2019-22

Background papers

Report to Licensing and Safety Committee on 7 March 2018

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=139&MId=3765>

Report to Licensing and Safety Committee on 26 June 2018

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=42363>

Report to Business Support Overview and Scrutiny Committee on 5 July 2018

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=42492>

List of Consultees

Responsible Authorities:

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

All Ward Councillors

Companies providing help to people:

Citizens Advice Bureau – Medway Office
Samaritans
Age UK Medway

Gambling Help:

Gambling Commission
Gamblers Anonymous
Gamcare
Be Gamble Aware
National Problem Gambling Clinic

The Licensed Premises Trade regarding Machines:

Shepherd Neame
LVA
Greene King
Enterprise Inns
Admiral Taverns
J D Wetherspoon

Gambling Companies:

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

The public and other stakeholders via public notices

Report on Changes Proposed by Officer

Listed below are the changes that have been made within the draft document for Members' approval for consultation to the existing document for ease of reference.

PART A

Introduction and Declaration – This has been updated and expanded to provide clarity.

Licensing Objectives – moved to item 2 for an improved flow of sections.

Medway Council – moved to item 1 for an improved flow of sections and has been amended to include vision and strategic objectives with reference to other council documentation.

Enforcement – reworded to include sections on good practice in regulation and complaints against licensed premises.

PART B

Licensing objectives – this is a re-write in respect of each licensing objective. Criteria and Considerations have been listed to provide clarity to applicants on what needs to be referred to, or included, in applications.

Safeguarding against Child Sexual Exploitation – this is a new section.

Public Health considerations – this is a new section.

Local Risk assessment – this is a new section.

Appendix C – for clarity information here has been expanded.

Appendix D – this has been added to provide relevant links for the Medway vision and strategic objectives.

Appendix E - this has been added as a source of useful links in respect of local risk, help and advice.

Evaluation of Consultation Responses

Respondent	Paragraph	Comments	Appraisal	Response
Strood Conservative Club	N/A	At Strood Conservative Club we don't have any gambling machines and so our experience of dealing with any problems attached to gambling do not exist for us, and while we have read through your entire document we in all honesty can only comment on any paragraphs we think apply to us. Your policy attempts to be all things to all organisations and IU trust those who do deal with gambling will recognise that fact and respond accordingly.	The comments are appreciated and noted.	No changes to the draft Policy are proposed.
Gosschalks Solicitors on behalf of the Association of British Bookmakers	Part B – Para 10(iv) – Location	<p>Comment 1:</p> <p>This paragraph should be redrafted. The penultimate sentence suggests that the licensing authority may make a determination that there is an area/areas where gambling premises should not be located. Any such policy is likely to be unlawful and is certainly contrary to the overriding principle that the</p>	<p>Gosschalks' comprehensive response is gratefully received and the points made are considered to be valid.</p> <p>With regard to Comment 1, the respondent is correct that local authorities must aim to permit the use of premises for gambling in accordance with section 153 of the Gambling Act 2005. In addition, the expected demand for facilities cannot be a factor in relation to the determination of premises licence applications.</p>	<p>The following recommendations are made:</p> <p>1) That the wording, "<i>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</i></p>

Respondent	Paragraph	Comments	Appraisal	Response
	Part B – Paragraph 10(v) – Planning	<p>licensing authority must aim to permit the use of premises for gambling. The final sentence indicates that any such policy would not preclude an application from being made. This paragraph should be redrafted to remove references to this potentially unlawful policy.</p> <p>Comment 2:</p> <p>This paragraph states the Gambling Commission’s Guidance with regard to irrelevant matters when considering an application for a premises licence. The draft Statement of Policy and Principles would be assisted by a specific reference to section 210 Gambling Act 2005 which states that “a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in</p>	<p>Each application will be decided on its merits and in light of the findings of each local area risk assessment submitted by the applicant, which will help to inform whether the location of the proposed premises presents a risk to the statutory objectives.</p> <p>It is considered that the ability of the council to apply conditions to mitigate any specific location-based risks to the objectives is sufficient.</p> <p>With regard to Comment 2, this is an important point for applicants to note; however the draft Policy does already make specific reference to this in the section referred to the consultee.</p>	<p><i>each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome”</i> contained in Para 10(iv) be removed.</p> <p>2) No changes are proposed to Paragraph 10(v)</p>

Respondent	Paragraph	Comments	Appraisal	Response
	<p>Part B – Paragraph 10(vii) – Safeguarding against child sexual exploitation (CSE)</p>	<p>accordance with the law relating to planning or building”.</p> <p>Comment 3:</p> <p>Whilst the ABB agrees that child safeguarding is the responsibility of everybody, the fact remains that children may not be admitted to betting office premises. Whereas it may be appropriate to require training and monitoring in an environment that permits the admission of children such as family entertainment centres, it is not appropriate to require that betting office staff regularly patrol outside the premises or monitor patrons as they leave the premises. ABB members will of course, record and report any concerns to the Police. This paragraph should be redrafted accordingly.</p>	<p>With regard to Comment 3, it is considered that the intention of para 10(viii) is not to place an overly burdensome requirement on betting shop staff, but rather to express the council’s views that safeguarding <u>is</u> the responsibility of everybody; indeed, para 10(vii) does state that applicants are encouraged (i.e. not required) to put measures in place.</p> <p>The adult only facilities provided by betting premises may be utilised by persons involved in the exploitation of children, and there is consequently an opportunity for those in charge of such premises to play their part in working to actively detect and prevent any such crimes associated with their premises, which may include the immediate vicinity, that might not otherwise be possible.</p> <p>As always, each application will be assessed on its merits.</p>	<p>3) In order to provide some additional clarification, it is suggested that the following amendments are made:</p> <ul style="list-style-type: none"> - The words, ‘who use their premises’ be added to the end of the first paragraph to make clear that any management steps only extend to those who are using, or have just used, the premises. - The words ‘as far as is reasonably practicable’ be added to the end of the last paragraph to clarify that the expectation is not unreasonable or disproportionate. <p>No other changes are proposed since this section expresses the council’s views of possible forms of best practice, and does not</p>

Respondent	Paragraph	Comments	Appraisal	Response
	<p>Part B – Paragraph 10(xi) – Local Risk Assessments</p>	<p>Comment 4:</p> <p>This paragraph contains a list of matters that the licensing authority would recommend operators take into account when dealing with a risk assessment. This list needs to be amended as it contains irrelevant matters. For example, the second bullet point indicates that operators should take into account gaming trends that reflect benefit payments. This pre-supposes that those in receipt of benefit payments are automatically vulnerable. There is no evidence to substantiate this and we are certain that the licensing authority has not predetermined that those in receipt of benefits are indeed vulnerable.</p> <p>The list also suggests that operators take into account other licensed premises, banks, post</p>	<p>No statutory guidance is available in relation to what specific data could/should be included within local risk assessments (this is a matter for each Licensing Authority to determine).</p> <p>It is agreed that there is no known justification for including ‘gaming trends that may reflect benefit payments’ within the matters to be considered within a local risk assessment.</p> <p>It is however argued that the location/proximity of other types of premises/facilities, etc. is entirely relevant when they may attract, or otherwise be associated with, children or other vulnerable people who may be harmed or exploited by gambling. The 3rd objective relates to protection, which implies proactivity.</p> <p>Rather than remove this reference, it is instead suggested that this section is broadened to widen its scope whilst also providing applicants with greater provision</p>	<p>place any additional formal onus or requirements on applicants.</p> <p>Replace ‘The LCCP requires the Licensing Authority’ with ‘It is considered best practice for Licensing Authorities’ as the former phrase is incorrect.</p> <p>Removal of ‘Gaming trends that may reflect benefit payments.’</p> <p>Removal of ‘Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities’ and, in exchange, amend the previous bullet point to read:</p> <p>‘The urban setting in relation to the number, location and proximity of buildings, attractions or facilities, etc. that may attract children or other vulnerable people.’</p>

Respondent	Paragraph	Comments	Appraisal	Response
	Part B – Paragraph 10(xii) – Licence Conditions	<p>offices, refreshment and entertainment type facilities in the area. There is no evidence to suggest that the users of any of these facilities are more or less vulnerable and therefore the proximity of such premises cannot be relevant to an assessment with regard to whether or not the operation of premises is/would be reasonably consistent with the licensing objectives.</p> <p>Comment 5:</p> <p>The draft Statement of Policy and Principles would be assisted by an indication within this section that the mandatory and default conditions that are attached to all licences are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. Thereafter, the draft statement of policy and principles should make it clear that additional conditions will only be imposed where there is clear</p>	<p>for assessing locality-based risk on a case by case basis.</p> <p>With regard to the first comment contained within the first paragraph of Comment 5, this would simply be a repetition of statutory requirements that already exist rather than a matter of local policy.</p> <p>With regard to the second comment, it is considered that the wording within the section is appropriate and that there any changes to the wording would purely be down to a matter of preference.</p>	No changes are suggested to Paragraph 10(xii).

Respondent	Paragraph	Comments	Appraisal	Response
		<p>evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.</p> <p>References to conditions being imposed where there is “a perceived need” or “where appropriate” should be removed.</p>		
William Hill	Part B – Paragraph 10(vii) – Safeguarding against child sexual exploitation (CSE)	<p>Comment 1 - As betting premises do not allow under 18s to use the facility, there is very little the shop staff will be aware of in relation to this, in their line of work. Clearly, most other retailers and premises in the high street, where children are permitted, would have a higher risk of observing such activity. So although we would clearly anticipate that our staff, as responsible citizens, would report anything suspicious they were aware of, this is more likely to be in their everyday life rather than their work environment. We therefore do not see the reasons for this category being included in a Gambling Licensing policy.</p>	Noted. The comments provided in response to Comment 3 from Gosschalks Solicitors	As per in response to Comment 3 from Gosschalks Solicitors

Respondent	Paragraph	Comments	Appraisal	Response
	Part B – Paragraph 15 - Betting premises - Voluntary Partnership Agreement	Comment 2 - The section refers to a Voluntary Partnership Agreement, and “gambling operators will pilot a new self-exclusion scheme”. I believe, via Betwatch and also the MOSES scheme now in place, this section should be updated. You will obviously be aware of how this has been adopted by all operators though.	This is now dealt with within the Gambling Commission’s Licence Conditions and Codes of Practice which place extensive requirements on operators in relation to the provision of self-exclusion. Consequently, the paragraph relating to a Voluntary Partnership Agreement found within Part B, section 15 of the draft policy has been superseded.	It is recommended that the two paragraphs relating to a Voluntary Partnership Agreement found within Part B, section 15 of the draft policy be removed.



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GAMBLING ACT 2005

STATEMENT OF POLICY AND PRINCIPLES

2019 - 2022

Published on xx December 2018

Effective from xx January 2019

Version 1.0

Licensing Unit
Gun Wharf
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PART A	INTRODUCTION AND DECLARATION	Page 3
1.	Medway Council	Page 5
2.	The Licensing Objectives	Page 7
3.	Authorised Activities	Page 8
4.	The Gambling Commission	Page 9
5.	Responsible Authorities	Page 9
6.	Interested Parties	Page 10
7.	The Council's Functions	Page 10
8.	Exchange of Information	Page 11
9.	Enforcement	Page 12
PART B	PREMISES LICENCES: CONSIDERATION OF APPLICATIONS	
10.	General Principles	Page 14
	<input type="checkbox"/> Decision making	Page 14
	<input type="checkbox"/> Definition of 'premises'	Page 14
	<input type="checkbox"/> Premises 'ready for gambling'	Page 16
	<input type="checkbox"/> Location	Page 16
	<input type="checkbox"/> Planning	Page 17
	<input type="checkbox"/> Duplication with other regulatory regimes	Page 17
	<input type="checkbox"/> Licensing objectives	Page 17
	<input type="checkbox"/> Child Sexual Exploitation	Page 20
	<input type="checkbox"/> Public Health	Page 20
	<input type="checkbox"/> Promoting Responsible Gambling	Page 21
	<input type="checkbox"/> Local Risk Assessments	Page 21
	<input type="checkbox"/> Licence Conditions	Page 21
	<input type="checkbox"/> Door Supervisors	Page 22
11.	Adult Gaming Centres	Page 23
12.	(Licensed) Family Entertainment Centres	Page 23
13.	Casinos	Page 24
14.	Bingo Premises	Page 24
15.	Betting Premises	Page 24
16.	Credit/ATMs	Page 25
17.	Tracks	Page 25
18.	Applications and Plans	Page 25
19.	Travelling Fairs	Page 26
20.	Provisional Statements	Page 26
21.	Reviews	Page 27
PART C	PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE	
22.	Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits	Page 29
23.	Statement of Principles	Page 29
24.	(Alcohol) Licensed Premises Gaming Machines Permits	Page 30
25.	Administrative matters	Page 31
26.	Prize Gaming Permits	Page 31
27.	Club Gaming and Club Machine Permits	Page 32
28.	Small Society Lotteries	Page 33
29.	Temporary Use Notices	Page 33
30.	Occasional Use Notices	Page 34
31.	Summary of some terms under The Gambling Act 2005	Page 34
32.	Responsible Authorities	Page 34

33.	Categories of Casino	Page 35
34.	Categories of Gaming Machines	Page 35
A.	Table of Delegations of Licensing Functions	Page 36
B.	Responsible Authorities Contact details	Page 37
C.	Category of Gaming Machines & Machine Provisions	Page 38
D.	Council Policies and Plans web links	Page 40
E.	Useful Information links	Page 41

DRAFT

PART A - INTRODUCTION AND DECLARATION

Under section 349 of the Gambling Act 2005 (the Act) the Council is required to publish a statement of principles which it proposes to apply when exercising its functions under the Act. The form of the statement of principles is set out in The Gambling Act 2005 (licensing Authority Policy Statement) (England and Wales) Regulations 2006. The Gambling Commission's Guidance to licensing authorities contains further details of the form of the council's statement of principles.

Gambling is a legitimate regulated activity that is enjoyed by a large number of the population. However, there are a number of people within our society who are at risk to gambling related harm. The council, as the Licensing Authority under the Act has a duty to consider applications relating to allowing gambling facilities within Medway to ensure that they meet the fundamental principles of the Act. In doing so the authority must balance the needs of business to profit and growth with the potential impact on those who are vulnerable to being exploited or susceptible to gambling related harm.

The Licensing Authority, in carrying out its function under section 153 of the Gambling Act 2005 will aim to permit the use of premises for gambling in so far as it thinks it:

1. In accordance with any relevant code of practice under section 24
2. In accordance with any relevant guidance issued by the Gambling Commission under section 25
3. Reasonably consistent with the licensing objectives (subject to 1 and 2 above), and
4. In accordance with the statement of licensing policy (statement of Licensing Principles for Gambling) (subject to 1 to 3 above)

The aim to permit principle provides wide scope for the authority to impose conditions on a premises licence, reject, review or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant Guidance issued by the Gambling Commission and the Statement of Licensing Principles.

The council's statement of principles is intended to be reasonably consistent with the three licensing objectives set out in the Act. These objectives are:

- Preventing gambling from being a source of crime and disorder, being associated with crime and 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 statement of licensing principles was prepared in early 2018 and following consultation was agreed by the Council on *(date to be inserted)*. The new three year statement of licensing principles was published on *(date in December to be inserted)* and has effect from *(date in January to be inserted)*

The Act requires that the following people and bodies be consulted in the revision of the statement:

- The Chief Officer of Police;
- People and bodies representing the interests of persons in gambling businesses in the area;
- People and bodies who represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Act

The consultation on the revised statement of principles with the above was advertised and took place over a 12-week period from 12 March 2018 to 4 June 2018.

It should be noted that the policy statement will not override the right of any person to make an

application, or to make representations about an application, or to apply for a review of a licence, as each will be considered in its own merits and in accordance with the statutory requirements of the Act.

DECLARATION: In producing the Final version of the 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.

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1. MEDWAY COUNCIL - POLICY VISION AND STRATEGIC OBJECTIVE

‘The Licensing Authority wants Medway to be a great place to live, work and visit, with a wide choice of high quality and well maintained licensed venues within a safe environment, while supporting and protecting the growth of our towns, district centres and developing communities’

Medway sits at the mouth of the River Medway on the north Kent coast. The five historic towns of Strood, Rochester, Chatham, Gillingham and Rainham are linked by the A2 and form a complex urban conurbation, which retains the distinct identities of the individual towns and their suburbs. There is also a large countryside element with the urban area surrounded by a network of villages on the Hoo Peninsula and the Medway Valley.

Medway is one of the largest urban areas in the south east, and has been growing rapidly in recent years to a population of 276,492 in 2015. The population has a slightly younger age profile than the Kent and England averages, and has an increasing number of people over 65 years. This has implications for services such as leisure and shopping facilities. Medway has seen steady growth in recent years, and this is projected to continue with expansion of the population projected to reach 330,200 people in 2035. In contrast to other areas in Kent, much of Medway’s growth is from natural change, with births outnumbering deaths.

The Statement of Gambling Principles has a strong role to play in supporting the delivery of the Council vision for Medway by providing the right policy framework, within a licensing context, to ensure it is a safe and welcoming place, which appeals to all, and protects and supports our communities. It is therefore important the policy statement, as far as is reasonably practicable, supports, and is consistent with, the strategic aims of the council and its partners. This approach is supported by the Guidance.

Other Council policies, plans and strategies which support, and are supported by, this Policy are listed below with the web links listed at Appendix D:

- The Local Plan,
- The Sustainable Community Strategy 2010-26: City of Medway: Rich Heritage, Great Future,
- The Council Plan
- Joint Health and Wellbeing Strategy for Medway,
- Medway’s Cultural Strategy
- Local Transport Plan
- Medway Regeneration Framework
- Community Safety Plan
- Medway Children’s Action Network – Early help strategy
- Medway Safeguarding Children Board – Kent and Medway Safeguarding Procedures

The Authority wants members of the trade to be part of our vision and to help shape the future of our communities, centres and environment.

The Authority has an important role in supporting Medway's cultural identity, which sets us apart as an attractive and dynamic place to live, work, study and visit. Medway is unique due to the combination of rich history, naval heritage, world-renowned connections with Charles Dickens, a growing arts scene, and more than 30 days of free festivals and events every year. Our cultural offer also brings economic benefits, accounting for around 15% of Medway's economy.

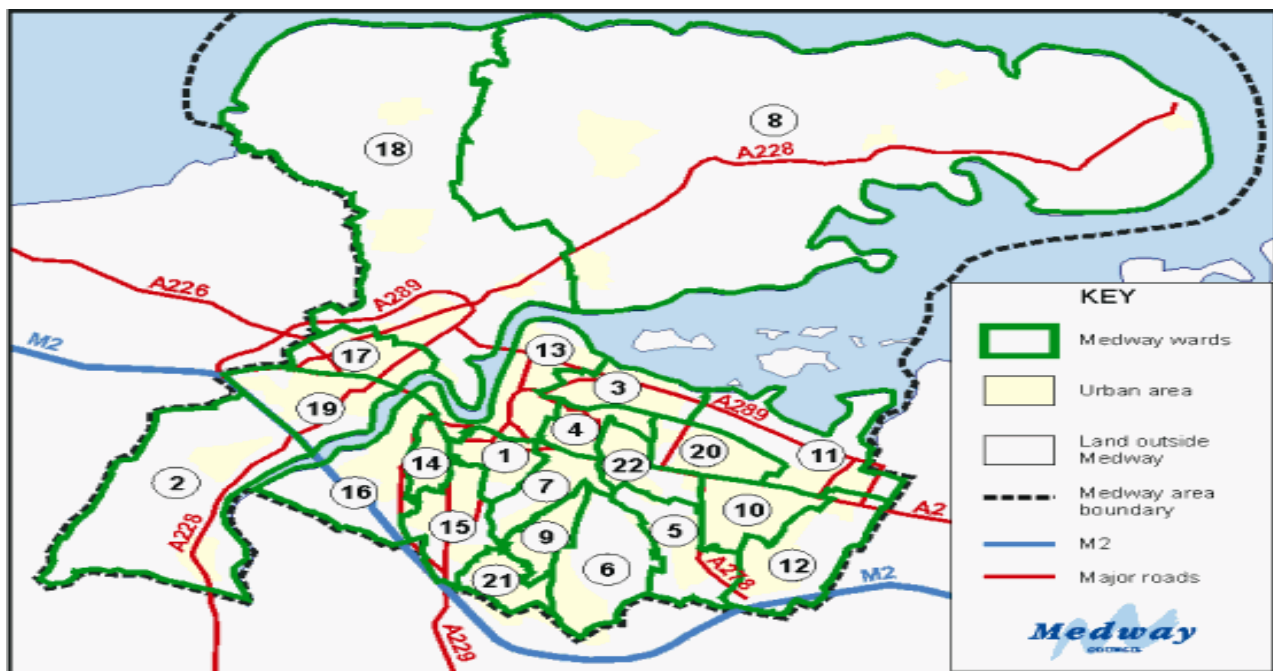
An important part of the cultural offer is the dynamic night time economy, providing employment and attracting tourists and visitors. However there is also a tension between residents and these businesses. Our residents, responsible authorities and other agencies tell the council that crime, disorder and public nuisance associated with late night licensed premises, their customers and alcohol misuse can cause problems.

By working together with the trade, responsible authorities and residents the Authority want to create a vibrant, safe and welcoming early evening and night-time economy, which supports and promotes local businesses, creating the environment for viable and sustainable business models supporting the council's regeneration goals. The Authority wants to encourage and support family friendly venues and businesses broadening the cultural offer to a greater number of people, both residents and visitors.

The Authority wishes to protect and grow our neighbourhood centres, as well as the wider environment, by working closely with responsible businesses in a way that ensures the needs and aspirations in their areas, but do not add to the existing issues and problems across Medway.

The Authority wants to work in partnership to achieve

- A safe environment for people to live in, work and enjoy
- Broaden the appeal of the evening and night time economy, while taking into account the needs of residents
- To create an environment which attracts the appropriate investment and allows businesses to thrive and grow
- To tackle gambling related harm and promote health an wellbeing



- | | | |
|---------------------------|---------------------------------|--------------------|
| 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 | | |

2. 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 produced 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.

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 GAMBLING ACT 2005 (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@gamblingcommission.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 Responsible Authorities are:

- The Licensing Authority
- The Gambling Commission
- Kent Police Licensing Enforcement
- Kent Fire & Rescue Service
- The Councils Planning Department
- The Councils Environmental Health Department
- Medway Safeguarding Children's Board
- HM Revenue and Customs

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 represent 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 service

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

Good practice in regulation

The Legislative and Regulatory Reform Act 2006 places a legal duty on any person exercising a specified regulatory function to have regard to the statutory principles of good regulation in the exercise of the function. These provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed.

This authority will have full regard to these principles when carrying out any regulatory activity and to the requirements of the Regulators' Code. The purpose of the code is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.

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 (including any changes/updates);
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this statement of licensing policy.
- The type and location of the premises
- The past operating history of the operator
- The confidence in management
- The arrangements in place to promote the licensing objectives

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.

Complaints against licensed premises

The licensing authority will investigate complaints against licensed premises in relation to matters concerning the licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.

Where an interested party has made a complaint about licensed premises, or a valid application for a licence to be reviewed the council may, in certain cases, initially recommend a mediation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party or for any licence holder to decline to participate in a mediation meeting.

Due consideration will be given to all complaints unless they are considered to be frivolous, vexatious or repetitious.

**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.

(vii) 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**

To prevent gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria:

Whether the premises make or will make a contribution to the level of crime and disorder and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent gambling from being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

Considerations:

- Where an area is known for high levels of crime the council will consider carefully whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.
- Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- Whilst issues of nuisance are not included specifically in the gambling objectives, the council may consider, when making decisions on the applications for premises licences, that extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- Whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
- Whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of associated or to avoid apprehension.

Applicants for premises licences will have to hold an operator's licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The licensing authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's Guidance, codes or practice and this statement of Principles.

The Council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, gambling premises. The applicant will have to provide evidence that they meet the criteria set out and demonstrate that in operating the premises they will be reasonably consistent with this objective. The council will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out. The operator must meet the Commission's requirements to obtain and hold an operator's licence, whilst the Licensing Authority's concerns are focused on the premises and how the operation of the premises will affect the licensing objectives.

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

To ensure that gambling is conducted in a fair and open way, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria:

Whether the premises will operate with such measures that will ensure that the gambling activity is conducted in a fair and open way.

Considerations:

- Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
- Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- Whether the management and operation of the premises is open and transparent.
- Whether the operators of the premises have been or will be fully cooperative with enforcement agencies
- Whether the Commissions Code of Practice has been complied with.

The Gambling Commission is the body primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way. The Licensing Authority will consider each application on its own merits and will look closely at applications for types of premises that can be run by an operator where there is no requirement to hold an operator's licence.

Track owners do not necessarily require an operator's licence and any application made by such an unlicensed operator will be scrutinised to ensure that the objective is met. In these circumstances the applicant would be expected to address how they intend to ensure that gambling will be conducted fairly and openly. The Licensing Authority may wish to impose conditions to ensure that the environment in which betting takes place is suitable.

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

To protect children and other vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews.

Criteria:

Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

Considerations:

- Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective to exclude them from the premises or parts of the premises.
- If the premises is an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.
- Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
- Whether any promotional materials associated with the premises could encourage the use of the premises by children or young people.

The Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The location of the premises may be a significant factor if for example the premises are located near a school, hostel or other sensitive premises.

Persons under 18 cannot be admitted to many types of gambling premises. New gambling premises or

variations to existing premises that are in close proximity to schools or main routes to schools will expect the applicant to have carefully considered their operation and any potential for exposing children and young people to gambling. Operators should demonstrate policies and procedures that will prevent children and young people from entering premises or partaking in gambling activities.

It is noted that both the Act and Guidance do not define the term “vulnerable persons”. The Commission states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”. This is the definition of vulnerable persons the council will use in its consideration of applications.

(viii) Safeguarding against Child Sexual exploitation (CSE)

The Council acknowledges that CSE awareness doesn't just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises. Applicant should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.

Applicants are encouraged to ensure that suitable management controls are in place to safeguard children against the risk of CSE. Measures may include, but are not limited to:

- Awareness training for staff
- Regular patrols of the premises, including external areas and the immediate proximity, to identify any vulnerable children.
- Close monitoring of patrons as they leave the premises
- Recording and reporting concerns to the police.

The council expects applicants to be aware of “risk indicators” of CSE which include, but are not limited to:

- Developing relationships between a child and an older person
- Children in the company of a group of older persons
- Children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children.
- Children outside of licensed premises developing relationships with older persons, particularly and older person facilitating gambling for children.
- Children leaving the locality of the premises with older persons, particularly with a group of older persons.
- Children looking uncomfortable in the company of, or leaving with, older persons, particularly groups of older persons.

Whilst the council does not wish to create the impression that all contact between children and older persons is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

(ix) Public Health considerations

Whilst there may be evidence that problem gamblers and their families are at risk of significant health and social problems such as mental illness, drug and alcohol misuse, relationship breakdown, criminal activity and financial difficulties, public health is not a licensing objective and therefore cannot be taken into account, when deciding on applications. The Licensing Authority will however liaise with public health colleagues about new and variation applications within Medway, so that we can both continue to monitor any increase in access to gambling opportunities for those at risk of problem gambling, and work jointly to ensure that appropriate measures are put in place to minimise that risk and support those seeking help.

(x) Promoting Responsible gambling

The Licensing Authority supports, and encourages licence holders to do so; the national campaigns run by be gamble aware in order to provide relevant information on understanding the risks. One such national campaign is ***“When the fun stops STOP!”***

Gambling may be fun, but some people can lose control and gamble more than they can afford. Some simple steps can be promoted to help avoid gambling becoming a problem to consumers.

- Set a limit to spend at the start
- Only bet what can really be afforded
- Don't chase a loss
- Don't bet if you're getting angry or frustrated
- Never put betting before family & friends

(xi) Local Risk Assessments -The Gambling Commissions Licence Conditions and Code of Practice (LCCP) (issued in February 2015) requires operators to consider local risks in their application.

The LCCP requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this licensing authority would recommend that the following matters are considered by operators when making their risk assessment

- Information held by the licensee regarding self-exclusions and incidences of underage gambling
- Gaming trends that may reflect benefit payments
- Arrangements for localised exchange of information regarding self-exclusion and gaming trends
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities.
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

(xii) 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.

(xiii) 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
- Provisions 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.

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), 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

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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 A**

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.

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	

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

CATEGORIES OF GAMING MACHINE*

Machine category	Maximum stake	Maximum prize
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)

*Please note that the values contain within this table are subject to periodic change.

SUMMARY OF MACHINE PROVISIONS BY PREMISES

PREMISES TYPE	A	B1	B2	B3	B4	C	D
Large Casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in Categories B to D (except B3A machines) within the total limit of 150 (subject to a machine/table ratio)					
Small Casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in Categories B to D (except B3A machines) within the total limit of 80 (subject to a machine/table ratio)					
Bingo Premises				Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 and B4		No limit on category C or D machines	
Betting Premises			Maximum of 4 machines categories B2 to D (except B3A machines)				
Betting (track)			As Betting above but only if the licence-holder also holds a Pool Betting Operating Licence				
Adult Gaming Centre				Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 and B4		No limit on category C or D machines	
Family Entertainment Centre						No limit on category C or D machines	
Family Entertainment Centre with Gaming Machine Permit							No limit on category D machines
Gaming Machine Permit or Club Machine Permit				Maximum of 3 machines Members clubs - from Cat. B3a/B4/C/D Commercial clubs – from Cat. B4/C/D			
Alcohol-licensed premises Automatic entitlement						1-2 machines of category C or D automatic upon notification	
Alcohol-licensed premises Gaming Machine Permit						Number of category C-D machines as specified on permit	
Travelling funfair (no authorisation required)							No limit on category D machines

COUNCIL POLICIES AND PLANS WEB LINKS

- The Local Plan,
<http://www.medway.gov.uk/planningandbuilding/planningpolicy/localplan-futuremedway/developmentoptions.aspx>
- The Sustainable Community Strategy 2010-26: City of Medway: Rich Heritage, Great Future, http://www.medway.gov.uk/pdf/sustainable_com_strategy_web.pdf
- The Council Plan
<http://www.medway.gov.uk/pdf/Council%20Plan%20201617%20July.pdf>
- Joint Health and Wellbeing Strategy for Medway,
<http://www.medway.gov.uk/pdf/Joint-Health-and-Well-being-Strategy-for-Medway-2012-2017.pdf>
- Medway's Cultural Strategy
<http://www.medway.gov.uk/pdf/CS%20booklet%20web%20version.pdf>
- Local Transport Plan http://www.medway.gov.uk/pdf/Local_Transport_Plan_2011-2026.pdf
- Medway Regeneration Framework
<http://www.medway.gov.uk/pdf/Medway%20Regeneration%20Framework.pdf>
- Community Safety Plan
<http://www.medway.gov.uk/pdf/Medway%20Community%20Safety%20Partnership%20Action%20Plan%202016%20Final.pdf>
- Medway Children's Action Network – Early help strategy
<http://www.medway.gov.uk/pdf/2.01a%20Early%20Help%20Strategy%20v4%20Feb%202015.pdf>
- Medway Safeguarding Children Board – Kent and Medway Safeguarding Procedures
<http://www.proceduresonline.com/kentandmedway/>

USEFUL INFORMATION WEB LINKS

Local area profiles	http://www.medway.gov.uk/planningandbuilding/planningpolicy/factsandfigures/areaprofiles.aspx
Local facts and figures	http://www.medway.gov.uk/planningandbuilding/planningpolicy/factsandfigures.aspx
Crime Statistics	https://www.police.uk/
Medway Safer Business Partnership	http://www.safermedway.com/
Community Safety Partnership	http://www.medway.gov.uk/crimenuisanceandsafety/communitysafety.aspx
Trading Standards	http://www.medway.gov.uk/businessandinvestment/tradingstandards.aspx
Public Spaces Protection Orders (previously Alcohol Control Zones)	https://medwaycommunitysafety.wordpress.com/2010/03/15/alcohol-control-zones-keeping-medway-safe/
Medway Joint Health and Wellbeing Board	http://www.medway.gov.uk/carehealthandsupport/healthandwellbeing/healthandwellbeingboard.aspx
Medway Planning	http://www.medway.gov.uk/planningandbuilding.aspx
Be Gamble Aware	https://www.begambleaware.org/
When the fun stops STOP	http://whenthefunstops.co.uk/
GamCare	http://www.gamcare.org.uk/