

GAMBLING ACT 2005

**STATEMENT OF
GAMBLING LICENSING
POLICY**

2024 – 2027

HEREFORDSHIRE COUNCIL

GAMBLING ACT 2005

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FOREWORD

The Gambling Act 2005 (hereafter referred to as “the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts should be the subject of re-consultation.

This Statement of Principles has been prepared as required by Section 349 of the Act and has had regard to the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act, the licensing objectives and the views of those consulted. We have consulted widely upon this statement before finalising and publishing. A list of those consulted can be found at the rear. The policy was approved at a meeting of the Full Council on.-----

Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder; being associated with crime or disorder; or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

These objectives are supplemented by the core principle of ‘social responsibility’ that will be given effect through the licensing and regulatory decision-making of the Gambling Commission and licensing authorities. Supported by the publication of codes of practice and guidance by the Gambling Commission and, in the case of licensing authorities, by the preparation of a statement of Gambling Licensing Policy.

GENERAL

1.0 Introduction

The Licensing Authority recognises that the licensed entertainment business sector in Herefordshire contributes to the local economy and social infrastructure, but that this has to be balanced with the impact of such activities on the licensing objectives. The Licensing Authority wishes to encourage responsible run premises to provide a wide range of entertainment activities throughout their opening hours and to promote gambling in accordance with the licensing objectives. They are a factor which supports growth across the county which builds on the county's strengths and resources, which is one of the Council's ambitions.

- 1.1 Herefordshire is bordered by Shropshire to the north, Worcestershire to the east, Gloucestershire to the south-east, and the Welsh counties of Monmouthshire and Powys to the west. It has a population of 193,600 (mid-2020) and covers an area of 2180 square kilometres (842 square miles). 95% of the land is rural with over half the population living in these rural areas. At the centre of the County is Hereford City with a population of 61,400. The city is surrounded by the market towns of Leominster (12,200), Ross on Wye (11,400), Ledbury (10,100), Bromyard (3,361) and Kington (3,302). It has an ageing population with 24% of the residents over 65, compared to the national average of 18%. Earnings in Herefordshire are significantly lower than the average in England and the West Midlands. In 2022, the median weekly earnings for people who work in Herefordshire were £454.00, compared to £536.60 in England.
- 1.2 This policy will set out the general approach that the Licensing Authority will take when it considers applications. It will not undermine the right of any individual to apply for a variety of permissions, nor undermine the right to have any such application considered on its individual merits. Nor will it override the right of any 'responsible authority' or 'interested party' to make relevant representations on an application, or seek a review of a licence where provision has been made for them to do so in the Act.

- 1.3 The Licensing Authority is required to publish a Gambling Licensing Policy that will be used when exercising its licensing functions. This Policy has been prepared to assist the Licensing Authority in reaching a decision on applications, setting out those matters that will normally be taken into account. It also seeks to provide information for applicants, residents, businesses in the County and the responsible authorities on the Licensing Authorities expectations.
- 1.4 This Policy will be published at least every three years. The Policy may also be reviewed from time to time. Any proposed amended or revised Gambling Licensing Policy will be consulted upon and re-published.
- 1.5 The Gambling Act requires that the following parties are consulted:
- a) The Chief Officer of Police
 - b) One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
 - c) One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 1.6 Herefordshire Council has consulted widely (but within reasonable limits) upon this Policy Statement before finalising and publishing it. Copies of the proposed policy was also published on the 'Consultation' page of our website.
- 1.7 Our consultation took place between 8th March 2024 and 18th April 2024.
- 1.8 Herefordshire Council recognises its duties to consider the impact of all its functions and decisions on crime and disorder under the requirements of Section 17 of the Crime and Disorder Act 1998 in adopting this statement of policy. Herefordshire Council acknowledges the benefits to the community of properly regulating gambling in the district.

- 1.9 It should be noted that this statement of policy 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.
- 1.10 The statement of policy was approved at a meeting of the Full Council on2024. The statement will be effective from the date the policy is approved by Full Council.
- 1.11 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so.
- 1.12 In producing a Gambling Licensing Policy, the Licensing Authority will have regard to and in accordance with:
- the licensing objectives of the Gambling Act 2005
 - any relevant current Code of Practice issued by the relevant Government Department,
 - the current guidance issued by the Gambling Commission;
 - any relevant current statutory regulations, and
 - any responses from those consulted on the Policy statement.

Note: The Gambling Commission Guidance to Licensing Authorities, together with other guidance and information is available on the Gambling Commission website: <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

1.13 Declaration

In producing the final statement, 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 the statement.

2.0 The Licensing Objectives

- 2.1 In exercising most of the functions under the Gambling Act 2005 (the Act), Herefordshire Council (the Council) as the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Act.
- 2.2 The licensing objectives are:
- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - (b) Ensuring that gambling is conducted in a fair and open way
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 2.3 With regard to the crime and disorder objective, this Licensing Authority notes that there is no definition of the term 'disorder' in the Act, that there is no indication of the meaning of 'disorder' in the Explanatory Notes to the Act, but that the Gambling Commission's current Guidance to Licensing Authority's states that, "disorder is intended to mean activity that is more serious and disruptive than mere nuisance" and that the word 'intended' is used without any form of qualification.
- 2.4 It should be noted that the Gambling Commission has stated 'The Requirements in relation to children is explicitly to protect them from being harmed or exploited by gambling'.
- 2.5 The Licensing Authority will expect applicants for premises licences to assess the impact of their premises on the locality in relation to crime and disorder, and will give consideration to the measures offered by applicants in relation to this licensing objective and their assessment. The Licensing Authority considers that serious nuisance and anti-social behaviour can sometimes amount to disorder. They will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, in determining whether the line has been crossed.

2.6 For premises licences the Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences that are issued and regulated by the Gambling Commission.

2.7 With regard to the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling:

(a) Children: This objective is concerned with preventing them from taking part in gambling, consideration will be given as to whether specific measures are required at particular premises. Such measures may include supervision of entrances / machines, segregation of areas, age verification schemes (i.e. 'Challenge 25') etc.

(b) Vulnerable persons: It is noted that there is no definition or interpretation of the term "vulnerable persons" in the Act. In addition it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who 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." In the view of such lack of statutory interpretation or definition, or definitive guidance from the Gambling Commission, this Licensing Authority shall endeavour to consider this licensing objective on a case by case basis. Should a practical definition prove possible in the future then this Policy statement will (by way of a revision) be updated with it.

2.8 The Licensing Authority is legally obliged under provisions of the Act when making decisions about premises licences and temporary use notices to aim to permit the use of premises for gambling in so far as the Licensing Authority thinks it:

(a) complies with any relevant code of practice issued by the Gambling Commission

(b) in accordance with any relevant guidance issued by the Gambling Commission

- (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
- (d) in accordance with Herefordshire Council's Gambling Licensing Policy (subject to (a) to (c) above)

2.9 **Licensing Conditions and Codes of Practice 2015 (LCCP)**

The Gambling Commission issues two types of code of practice. Social responsibility (SR) codes and ordinary codes (OC). A social responsibility code must be adhered to by all licence holders in the same manner as a licence condition. An ordinary code is not mandatory but operators are expected to take account of them. Both sets of codes can be found in the Commission's Licence Conditions and Codes of Practices (LCCP).

3.0 **Responsible Authorities**

3.1 The Act sets out the responsible authorities that can make representations about premises licence applications, or who can apply for a review of an existing licence. In Herefordshire these are:

- The Council as the Licensing Authority
- The Gambling Commission
- West Mercia Police
- Hereford and Worcester Fire and Rescue Authority
- The Councils Planning Department
- The Council's Environmental Health & Trading Standards
- Herefordshire Safeguarding Children's Partnership
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,

A current list of responsible authorities and their addresses can be obtained from the Councils Licensing Team.

Protection of children from harm

3.2 The Licensing Authority is required by regulations to state the policy 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 policy is:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area;
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
- that this body is experienced in dealing with the protection of children.

3.3 In accordance with the suggestion in the Gambling Commission's Guidance for licensing authorities, the Authority designates the Herefordshire Safeguarding Children's Partnership for this purpose.

3.4 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Herefordshire Council's website at: www.herefordshire.gov.uk

4.0 **Interested parties**

4.1 Interested parties can make representations about applications for new premises licences applications and variations of an existing premises licence, or in respect of a review of an existing licence.

4.2 Interested 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 Council 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) above. e.g. ward councillors or a member of parliament.”

Principles of determining Interested Parties:

4.3 The Licensing Authority is required by regulations to state the policy it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

4.4 Each case will be decided upon its merits. The Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for licensing authorities at 8.12 and 8.15. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

4.5 The Gambling Commission has recommended that the Licensing Authority state whom it considers represent interested parties. These include, but are not confined to, democratically elected representatives such as local councillors and Members of Parliament (no specific evidence of being asked to represent an interested person will be required as long as the councillor or Member represents the ward likely to be

affected) and bodies such as trade associations and trade unions, and residents' and tenants' associations. The Authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by, or has business interests that might be affected by the authorised activities being applied for. A letter from one of these persons requesting representation shall be sufficient.

- 4.6 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee or Sub-Committee dealing with the licence application. If there are any doubts then please contact the Council's Democratic Services.

5.0 Representations

5.1 Representations for or against premises licence applications and premises licence variation applications must be made in writing, include the name and address of the person making the representation and must contain details of the effect of the application based on one or more of the following: -

- 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 Council's Gambling Licensing Policy
- Any relevant current guidance issued by the Gambling Commission,
- Any relevant current code of practice issued by the Gambling Commission,
- The Gambling Act 2005 and any relevant Regulations made there under.

Please note: -

- a) that this Licensing Authority considers 'disorder' to include anti-social behaviour (see number 2.3 above), and
- b) that the Licensing Authority is unable to accept representations made purely on moral grounds or planning grounds or which fall outside of its statutory remit as the Licensing Authority .

5.2 All representations must be received by the Licensing Authority within the statutory deadlines set out in either the Act or the Regulations made under the Act. The Licensing Authority cannot legally accept any late representations. Applications will be advertised by a notice placed at the premises (in a position where it can be seen and read by passers-by) and by a notice in a local newspaper.

5.3 Copies of all valid representations (including names and addresses) will be sent to the applicant in accordance with the provisions of the statutory regulations made under the act.

- 5.4 Persons making representations should be prepared to attend a Licensing Sub-Committee hearing to verbally inform the Committee of the grounds for their representation.
- 5.5 The Licensing Authority may determine an application for a premises licence without a hearing if it thinks that the representations: -
- are vexatious,
 - are frivolous, or
 - will certainly not influence it's determination of the application.
- 5.6 When an application has not attracted relevant representations, the Licensing Authority is compelled under the provisions of the Act to automatically grant the application (with or without licence conditions).

6.0 Exchange of Information

6.1 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 under section 350 of the Act, between it and the other persons listed in Schedule 6 to the Act. These being:

- A constable or police force;
- An enforcement officer;
- A Licensing Authority;
- Her Majesty's Revenues and Customs;
- The First-tier Tribunal;
- The Secretary of State;
- Scottish Ministers; and
- Any other person or body designated by the Secretary of State in accordance with the Act.

6.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to 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.

6.3 The Licensing Authority will inform the Gambling Commission without delay if:

- Information that causes the Licensing Authority to question the suitability of a person or business holding or applying to hold an operating licence is received.
- There are persistent or serious disorder problems that an operator could or should do more to prevent, so that the Commission may consider the continuing suitability of the operator to hold an Operating Licence.
- If it comes to the Licensing Authority's attention that alcohol-licensed premises, clubs or institutes are playing bingo during the course of a week

which involves significant stakes and prizes that that make it possible that £2,000 in seven days is being exceeded.

- Any other reasonable and relevant information that the Licensing Authority is of the opinion the Gambling Commission should be made aware of.

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

6.5 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners, to fulfil its' statutory objective of reducing crime in the area.

6.6 The authority would wish to make its decision making process as transparent as possible and all representations made to it will be shared with all parties to an application. Freedom of information legislation will be complied with

7.0 Enforcement and Inspection

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

7.2 When making decisions regarding enforcement or inspection regimes the Council will take into account the Gambling Commission's current Guidance and will endeavour to be:

- (a) Proportionate: regulators should only intervene when necessary, and remedies should be appropriate to the risk posed, and costs identified and minimised;
- (b) Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- (c) Consistent: rules and standards must be administered, enforced and implemented fairly;
- (d) Transparent: regulators should be open, and keep regulations simple and user friendly; and
- (e) Targeted: regulation should be focused on the problem, and minimise side effects, and
- (f) Within the principles of the Regulators Code issued by the Department for Business, Innovation and Skills.

7.3 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

7.4 The Licensing Authority may also adopt a risk-based inspection programme that will be based on:

- The Licensing objectives
- The Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at Part 36

- The principles set out in this statement of policy

7.5 The Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.6 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises (e.g. compliance with licence conditions). The Gambling Commission is the enforcement body for the Operating and Personal Licences, Club Gaming Permits, Club Machine Permits and Lotteries. West Mercia Police also has a wide range of enforcement powers available to it under the provisions of the Act. When the Licensing Authority receive complaints about matters falling outside of its remit, such complaints will be referred to the Gambling Commission and/or West Mercia Police and/or such other body as may be appropriate.

7.7 Subject to the above principles relating to enforcement, this Licensing Authority may institute criminal proceedings in respect of an offence under any of the following provisions of the Gambling Act 2005: -

- (a) section 37,
- (b) section 185,
- (c) section 186,
- (d) section 229,
- (e) section 242,
- (f) section 258,
- (g) section 259,
- (h) section 260,
- (i) section 261,
- (j) section 262,
- (k) section 326,
- (l) section 342,

- (m) paragraph 20 of Schedule 10,
- (n) paragraph 10 of Schedule 13, and
- (o) paragraph 20 of Schedule 14.

7.8 The Authority recognises that certain gambling premises operators have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and who the Authority will contact first, should any compliance queries or issues arise.

7.9 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act, in particular:

- Article 1, Protocol 1 – Peaceful enjoyment of possessions
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life
- Article 10 – right to freedom of expression

8.0 Licensing Authority functions

8.1 The main functions and responsibilities of the Licensing Authority under the Act are the:

- (a) Licensing of certain premises where gambling activities are to take place and/or gaming machines are provided, by issuing Premises Licences. The types of premises licences being Bingo, Adult Gaming Centre, Family Entertainment Centre, Betting (Track), and Betting (Other).
- (b) Issue Provisional Statements for premises being or expected to be built or altered, or that a person expects to acquire.
- (c) Issue either Club Gaming Permits or Club Machine Permits to members' clubs.
- (d) Issue Club Machine Permits to Commercial Clubs
- (e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- (f) Receive notifications for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of two or fewer gaming machines.
- (g) Issue Licensed Premises Gaming Machine Permits for certain premises licensed for the sale by retail of alcohol for consumption on the premises under the Licensing Act 2003 for the use of more than two gaming machines.
- (h) Register small society lotteries below prescribed thresholds.
- (i) Issue Prize Gaming Permits.
- (j) Receive and endorse Temporary Use Notices.
- (k) Receive Occasional Use Notices.
- (l) Provide information to the Gambling Commission regarding details of licences issued (see section 6 above on 'information exchange').
- (m) Maintain registers of the permits and licences that are issued under these functions.
- (n) Issue notices and other documentation required under the Act and the Regulations made there under.

9.0 **Duplication with other regulatory regimes**

9.1 The Licensing Authority will seek to avoid any duplication with other statutory and regulatory systems where possible, unless it believes such duplication is necessary for the promotion of and compliance with the licensing objectives. When considering an application for a premises licence the council will not (under the provisions of the Act) be able to consider matters such as:

- whether the premises is likely to be awarded planning or building consent, or
- whether the premises is safe for its use (e.g. structurally, means of escape, fire precautions etc.), or
- whether the use of the premises under the licence may cause any public nuisance (e.g. to residents in the vicinity),

9.2 The Licensing Authority will listen to, and consider carefully, any concerns that an applicant will not be able to meet any proposed licensing condition due to planning restrictions.

PREMISES LICENCES - Matters not covered above

10.0 General Principles

10.1 Premises licences may be obtained for the following categories of gambling premises:

- Betting (other than a Track)
- Betting (Track)
- Bingo
- Adult Gaming Centre
- Family Entertainment Centre

10.2 Local Risk Assessments

It is a requirement of the Commission's Licence Conditions and Codes of Practices (LCCP), specifically an SR code requirement that licensees assess local risks to the licensing objectives, posed by the provision of gambling facilities, at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

10.3 Licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in a Licensing Authority's statement of licensing policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

10.4 The Licensing Authority expects the local risk assessment to consider as a minimum:

- whether the premises are in an area subject to high levels of crime and/or disorder;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;

- the location of services for children such as schools, playgrounds, toy shops, leisure/community centres and other areas where children will gather such as fast food outlets;
- the demographics of the area in relation to vulnerable groups how vulnerable people, including people with gambling dependencies are protected;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- any indication in the area of young people attempting to access adult gambling facilities of the type offered in the area;
- high unemployment area;
- the area has a high number of rough sleepers/homeless people.

The risk assessment should take into account the risks presented by the local landscape.

10.5 Premises Licences are subject to the requirements set out in the Gambling Act 2005 (the 'Act') and Regulations, as well as specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions (upon application) and also when appropriate to attach additional conditions. The holders of premises licences may apply for the variation of their licences. Premises licences may also be transferred to another party.

10.6 In exercising its functions as the licensing authority this Licensing Authority will, in accordance with section 153(1) of the Act, aim to permit the use of premises for gambling in so far as it considers it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission
- (b) in accordance with any relevant guidance issued by the Gambling Commission
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with this Gambling Licensing Policy (subject to (a) – (c)).

10.7 The grant of premises licences must be reasonably consistent with the licensing objectives, and in this respect this Licensing Authority has considered the Gambling Commission's current Guidance to Licensing Authorities.

10.8 The Licensing Authority will take particular care in considering applications for multiple licences for what may be considered a single premises.

10.9 **Definition of "premises"**

In the Act "premises" is defined as "any place", and no premises except for a 'track' may have more than one premises licence.

10.10 However, it is possible for a single place such as a building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts can be reasonably regarded as being different premises. Whether different parts of a place/building can properly be regarded as being separate premises, will always be a question of fact in the circumstances. However, the Licensing Authority will consider the following when deciding whether a building or part of a building is a separate premises:-

- Has it a different postal address?
- Has it a separate registration for business rates?
- Is a neighbouring premises owned by the same person or someone else?
- Can it be accessed from the street or a public passageway via a separate entrance?
- Can it only be accessed from any other gambling premises?
- Would the ordinary person on the street consider that they were one premise or two?

10.11 The Licensing Authority also takes particular note of the Gambling Commission's Guidance for Licensing Authorities which states that:

Licensing Authorities should take particular care in considering applications for multiple premises 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.

10.12 It should be noted that following the case of *The Queen (on the application of) Betting Shop Services Limited v Southend-on-Sea Borough Council*, an applicant can obtain a full premises licence for premises in which it is proposed to offer gambling but the facilities have still to be constructed or altered. Licensing Authorities are required to determine such applications on their merits.

10.13 When an application is made for a premises licence for a premises that is in the course of construction or alteration, or are still to be constructed or altered, the Licensing Authority will take into account the current Guidance issued by the Gambling Commission. The Licensing Authority will also consider:

- whether the premises ought to be permitted to be used for gambling,
- 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, and
- when the premises intends to start operating under the licence (in order to ascertain whether the application is being made for 'speculative' purposes).

10.14 In considering licensing applications, the Licensing Authority will particularly take into account the following:

- The design and layout of the premises;
- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any crime, public order and anti-social behaviour issues if the licence is granted.
- The steps proposed by an applicant with regard to the licensing objectives and any licence conditions proposed by the applicant

10.15 Applicants should note that the Authority is entitled to decide that it is appropriate to grant such a licence subject to conditions, but it is not obliged to grant such a licence.

11.0 Location

11.1 The 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 for Local Authorities we 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.

11.2 This Licensing Authority will take into account, for the protection of children and vulnerable persons, the following when determining whether a premises location is suitable for a grant of a licence:

- The proximity of the premises to any recognised schools, centres or establishments for the education, training or care of young persons and/or vulnerable persons.
- The proximity of the premises to leisure centres used for sporting and similar activities by young persons and/or vulnerable persons,
- The proximity of the premises to any youth club or similar establishment,
- The proximity of the premises to recognised community, welfare, health and similar establishments used specifically or to a large extent by young persons and/or vulnerable persons and
- The proximity to any premises known to be associated by children such as fast food outlets.

11.3 Where an area has, or is perceived to have, unacceptable levels of crime and/or, disorder, this Licensing Authority will consider carefully whether such an area is suitable for gambling premises and whether licence conditions may be appropriate or successful.

11.4 Duplication with other regulatory regimes - The Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Licensing Authority will not consider any planning or building regulations issues in relation to the premises, in its consideration of the licence application. 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.

11.5 Furthermore, the Authority notes the following statement from the Gambling Commissions Guidance:

When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the 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.

12.0 Licence Conditions

12.1 Any conditions attached by the Licensing Authority to any particular licence will be proportionate and will be:

- (a) relevant to the need to make the proposed building suitable as a gambling facility;
- (b) directly related to the premises and the type of licence applied for;
- (c) fair and reasonable in relation to the scale and the type of premises, and
- (d) in the Licensing Authority's consideration be reasonable in all other respects.

12.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control 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 Policy for each of the different licence types.

12.3 The Licensing Authority will also consider specific measures that may be required for buildings that 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.

12.4 The Licensing Authority will also ensure that where category A to C gaming 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.

12.5 The above considerations will apply to premises including buildings where multiple premises licences are applicable.

12.6 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, with each licence relating to a specified area of the track. The Licensing Authority will consider the impact upon the licensing objective that refers to the protection of children. It will require that the entrances to each part of premises are distinct and that children are excluded from gambling areas, where they are not permitted to enter. The Licensing Authority will take into consideration any guidance issued by the Gambling Commission in this respect.

12.7 It is noted that there are conditions that 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.

12.8 Applicants may offer licence conditions to the Licensing authority as a part of their application. Examples of such conditions are: -

1. The premises shall be fitted out and operational within 6 months of the issue of the licence.
2. The Licensee shall notify the Licensing Authority when the premises have been fitted out and are ready for operation, so that the Licensing Authority

can inspect the premises. Such notification to the Licensing Authority shall be given no less than 10 days prior to the premises opening under the licence.

3. There shall be a minimum of 2 staff (excluding back room staff) on duty at the premises at all times that it is open, whose duties are to include the age verification of persons entering the premises who appear to be under the age of 25 years.
4. "Challenge 25":
 - A. The Licensee shall have a "Challenge 25" policy whereby all customers who appear to be under the age of 25 are asked for proof of their age.
 - B. The Licensee shall prominently display notices advising customers of the "Challenge 25" policy.
 - C. The following proofs of age are the only ones to be accepted:
 - Proof of age cards bearing the "Pass" hologram symbol
 - UK Photo Driving licence
 - Passport
5. Staff Competence and Training:
 - A. The Licensee shall keep a written record of all staff authorised to verify the age of customers, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised. The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.
 - B. The Licensee shall ensure that each member of staff authorised to verify the age of customers has received training on the law with regard to under age gambling and the procedure if an underage person enters the premises, within one month of the date that this condition appears on this licence. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Such training shall be agreed with Herefordshire Council Trading Standards. Training and records shall be kept on the premises which shall be made available for inspection by the Licensing Officer, Trading Standards or the Police on demand.

C. The Licensee shall ensure that each member of staff authorised to verify the age of customers is fully aware of his /her responsibilities in relation to verifying a customer's age and is able to effectively question customers and check evidence of proof of age.

6. Refusals Book:

A. The licensee to keep a register (Refusals Book) to contain details of time and date, description of underage persons entering the premises, and the name/signature of the sales person who verified that the person was under age.

B. The Refusals book to be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.

C. The Refusals Book to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.

7. CCTV:

CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits and outside areas.

A monitor shall be mounted on the wall at the premises where it is clearly visible to all members of the public. The monitor shall show the live CCTV footage being recorded.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept for a period of 31 days and handed to Police on demand.

The Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage in a recordable format on to any suitable media, to the Police/Local Authority on demand.

The Recording equipment and recording media shall be kept in a secure environment under the control of the Manager or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Police must be informed on contact number **101** immediately.

13.0. Numbers of Staff and Door Supervisors

13.1 The Licensing Authority will consider on a case by case basis whether the numbers of staff proposed to be on duty at a premises at any one time are adequate in relation to the control of the premises and especially with regard to the monitoring of persons using the premises, age verification, the ejection of or refusal to serve persons, and the maintenance of good order on the premises.

13.2 When making an application for a licence, applicants are recommended to inform the Licensing Authority of the numbers of staff that will be on duty at the premises at any one time and the times that such numbers will be on duty.

13.3 The Licensing Authority will consider on a case by case basis whether there is a need for door supervisors to meet the licensing objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, and preventing the premises becoming a source of crime.

13.4 It is noted that door supervisors at bingo premises, who are directly employed by the casino or bingo premises operator, are not required to be licensed by the Security Industry Authority. The Licensing Authority's policy expectations for such door supervisors working at bingo premises are that the Licensing Authority will expect the door supervisors to have:

- a competency qualification of Level 2 for Door Supervision in the National Qualification Framework (NQF), or
- an equivalent qualification or training which would meet the criteria of the Security Industry Authority for the licensing of that person as a Door Supervisor by that Authority.

The above expectations are in recognition of the nature of the door supervisors' work in terms of searching individuals, dealing with potentially aggressive persons, young and vulnerable persons etc.

13.5 A book shall be kept at the premises, which is maintained with the following records:

- the identity (including their full name and address) of the door supervisor deployed;
- the time they commenced and finished duty; and
- all incidents that the door supervisors dealt with.

If there are any future changes in the licensing or approval/registration regime administered by the Security Industry Authority that affect door supervisors these will be taken into account by the Licensing Authority.

13.6 The term 'door supervisor' means any person:

- (a) guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage; or
- (b) guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

13.7 For premises other than bingo premises, the Licensing Authority may decide that supervision of entrances/exits/machines is appropriate for particular cases.

14.0 **Protection of children and vulnerable persons –specific requirements for premises other than Betting Premises**

14.1 **Adult Gaming Centres: -**

The Licensing Authority will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover.

14.2 **(Licensed) Family Entertainment Centres**

The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate measures/licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas

- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. This Licensing Authority will refer to any Operating Licence conditions, current Guidance or Codes of Practice by the Gambling Commission as to the way in the area's containing category C or higher machines should be delineated and/or separated.

14.3 Bingo Premises

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Licensing Authority will require that:

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

Appropriate measures/licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors

- (e) Supervision of entrances/machine areas
- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of the types of issues that measures/conditions should cover. This Licensing Authority will take account of any current guidance from the Gambling Commission as to the suitability and layout of bingo premises.

- 14.4 Where Bingo is provided in alcohol-licensed premises and reaches a certain threshold, it will no longer be authorised as equal chance gaming and a Bingo Operating Licence will need to be obtained from the Gambling Commission. The aim of this provision is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.
- 14.5 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as 'high turnover bingo'.
- 14.6 If it comes to the attention of the Licensing Authority that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week, which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, the Licensing Authority shall inform the Commission accordingly.

15.0 **Betting Premises**

15.1 There are two different types of premises that require a betting licence. The licences for these premises are named as “Betting Premises Licence (In Respect Of Premises Other Than a Track)’ and ‘Betting Premises Licence (In Respect of a Track)’.

15.2 **Betting Premises Licence (In Respect Of Premises Other Than A Track)**

This type of licence allows premises (i.e. betting offices) to provide ‘off course’ betting i.e. betting that takes place other than at a track. There are also betting offices at tracks that have a separate premises licence from the track licence. Tracks and betting offices at tracks are discussed in the following section.

15.3 This Licensing Authority may, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at betting premises by imposing a licence condition. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines
- the number of counter positions available for person-to-person transactions, and
- the numbers of, and ability of staff to monitor the licensed premises and prevent persons under the age of 18 from entering the premises.

15.4 The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. However appropriate measures / licence conditions may cover issues such as:

- a) Proof of age schemes
- b) CCTV
- (c) The numbers of staff on duty at any one time.
- (d) Door supervisors
- (e) Supervision of entrances/machine areas

- (f) Physical separation of areas
- (g) Location of entry
- (h) Notices / signage
- (i) Specific opening hours
- (j) Self-barring schemes
- (k) Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

15.5 Betting Premises Licence (In Respect of a Track)

Tracks are sites (including football stadiums, horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the “totalisator” or “tote”), and also general betting, often known as “fixed-odds” betting.

15.6 The holders of a track premises licence do not need to have an operating licence issued by the Gambling Commission, unless they themselves wish to offer betting facilities at the track. Under the legislation the licence allows anyone with an operating licence to offer ‘on course’ betting facilities at a licensed track.

15.7 Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specified area of the track. There can be a ‘main’ premises licence and, in addition, ‘subsidiary’ premises licences for the parts of the track not covered by the main licence.

15.8 Children and Young Persons

Children and young persons are allowed to be present on a track licensed premises whilst betting is taking place, although they are not allowed to enter areas of the track where gaming machines (other than category D machines) are provided. Therefore the Licensing Authority will carefully consider the impact of the licensing objective of the protection of children and vulnerable persons in relation to each application for premises licences at a track.

15.9 We will expect applicants to demonstrate suitable measures to ensure that children do not have access to adult only gambling/gaming facilities.

Appropriate measures/ licence conditions may cover issues such as:

- (a) Proof of age schemes
- (b) CCTV
- (c) The numbers of staff on duty
- (d) Door supervisors
- (e) Supervision of entrances/machine areas
- (f) The physical separation of, and clear distinction of areas
- (g) Location of entry
- (h) Notices/signage

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

15.10 **Betting machines (also known as Bet Receipt Terminals) at tracks**

The potential space for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- the proliferation of such machines,
- the ability of track staff to supervise the machines if they are scattered around the track ,and
- preventing persons under the age of 18 from being able to use the machines.

15.11 This Licensing Authority will, when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at a betting premises, by attaching a licence condition to a betting premises licence. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- the size of the premises,
- the number and location of the machines
- the number of counter positions available for person-to-person transactions, and

- the ability of staff to monitor the licensed premises and prevent persons under the age of 18 from using the machines.

15.12 Condition on rules being displayed at tracks

The Licensing Authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

15.13 Applications and plans for tracks

Applicants must comply with any relevant regulations or guidance issued by the Gambling Commission in relation to applications for tracks. Applicants must ensure that the Licensing Authority is made completely aware of what it is being asked to licence.

15.14 The information submitted with the application must include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of:

- dog tracks and horse racecourses,
- fixed and mobile pool betting facilities operated by the Tote or track operator, and
- other proposed gambling facilities,

The plans should make clear what is being sought for authorisation under the track betting premises licence. It must also be made clear what, if any, other areas are to be subject to a separate application for a different type of premises licence.

15.15 Unless there is a compelling reason to not do so, the Licensing Authority will require all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

16.0 **Travelling Fairs**

- 16.1 Travelling fairs (as defined in the Act) may provide an unlimited number of Category D gaming machines and equal chance prize gaming without the need for any authorisation from the Licensing Authority, provided that such facilities amount to no more than an ancillary amusement at the fair.
- 16.2 There is a 27-day per calendar year statutory limit for a piece of land being used as a fair, and this regardless of whether it is the same or different travelling fairs using the land. The Licensing Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries are monitored so that the statutory limits are not exceeded.

17.0 Provisional Statements

- 17.1 Application for a provisional statement can be made for premises that an applicant expects to be constructed or to be altered, or expects to acquire the right to occupy. Representations can be made against an application for a provisional statement in the same manner as for a premises licence. The process for considering an application for a provisional statement is the same as that for premises licences.
- 17.2 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.
- 17.3 Once the premises have been constructed, altered or acquired by the holder of a provisional statement, they can put in an application for the necessary premises licence.
- 17.4 If a provisional statement has been granted, the Licensing Authority is constrained in the matters it can consider when an application for a premises licence is subsequently made in relation to the same premises.
- 17.5 No further representations from relevant authorities or interested parties can be taken into account in relation to the premises licence application 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.
- 17.6 In addition, the Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a) which could not have been raised by way of representations at the provisional licence stage, or
 - b) which, in the authority's opinion, reflect a change in the operator's circumstances, or

c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application.

Note: This must be a substantial change to the plan and the Licensing Authority will discuss any concerns they have with the applicant before making a decision.

17.7 Section 210 of the Act (which applies to premises licences and provisional statements) makes it clear that a licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

18.0 Reviews

A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review from an interested party or responsible authority. 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 licensing policy.

18.1 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.

18.2 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 the Authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

18.3 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:

- Add, remove or amend a licence condition imposed by the Licensing Authority;
- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such a condition;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the licence.

18.4 Initiation of review by Licensing Authority

The Licensing Authority may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Whilst officers may be involved in the initial investigations of complaints leading to a review, or may (at their discretion) try informal mediation or dispute resolution techniques prior to a review being initiated, the review itself must be heard and determined by the Licensing Committee or one of its Sub-Committees.

18.5 In relation to a class of premises, the Licensing Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, the Licensing Authority will most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause them to want, for example, to look at the default conditions that apply to that category of licence. In relation to particular premises, the Licensing Authority may review any matter connected with the use made of the premises, if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives them cause to believe that a review may be appropriate.

18.6 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 Gambling Commission
- Any person who made a representation
- The Chief Officer of Police or Chief Constable
- Her Majesty's Commissioners for Revenue and Customs.

18.7 Application for review by responsible authorities and interested parties

Whilst, requests for a review of a premises licence can be made by interested parties or responsible authorities, it is for the Licensing Authority to decide whether the

review is to be carried-out. However the Licensing Authority recognises that its decision to carry out a review must not amount to pre-judging the outcome of the review.

18.8 An application for a review may be (but need not be) rejected if the Licensing Authority thinks that the grounds on which the review is sought:

- are not relevant to the principles that must be applied by the Licensing Authority in accordance with section 153 of the Act.

Note: If the application raises issues that are not relevant to the current Gambling Commission guidance, current codes of practice, this Policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling, in so far we think that permission is in accordance with the matters set out in that section.

Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;

- that the grounds are frivolous;
- that the grounds are vexatious;
- that the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement, about whether it is reasonable to rely on this as a reason not to review the licence; or
- are substantially the same as representations made at the time the application for a premises licence was considered. In these circumstances the Licensing Authority will take into account the period of time that has passed since the representations were made, but the underlying requirement is that the Licensing Authority should not review the licence, on the basis of the same arguments considered on the grant of the premises licence.

The matters which will generally be considered relevant for any review are:

- (a) any relevant current code of practice issued by the Gambling Commission;
- (b) any relevant current guidance issued by the Gambling Commission;
- (c) the licensing objectives;
- (d) the Council's Statement of Gambling Licensing Policy, and
- (e) The Gambling Act 2005 and the Regulations made thereunder

Appeals – There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to Hereford Magistrates Court.

19.0 PERMITS

- 19.1 Permits regulate gambling and the use of gaming machines in premises, which do not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.
- 19.2 The Licensing Authority is responsible for issuing the following permits:
- Unlicensed Family Entertainment gaming machine permits
 - Alcohol licensed gaming machine permits
 - Prize gaming permits
 - Club gaming permits and club machine permits
- 19.3 The Gambling Act 2005 states that a Licensing Authority may 'prepare a statement' of policy that they propose to apply in exercising their functions under this Schedule which may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit.
- 19.4 This Licensing Authority has prepared Statements of Principles in Respect of Prize Gaming Permits and Family Entertainment Centre Gaming Machine Permits which can be found on our website.
- 19.5 The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.
- 19.6 There is a minimum age of 18 for all players for all category A, B and C gaming machines, including category B3A gaming machines offering lottery style games.
- 19.7 However, there is no minimum age for players of category D machines. The holder of any permit or premises licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

20.0 Unlicensed Family Entertainment Centre (uFEC) Gaming Machine Permits

20.1 Unlicensed Family Entertainment Centres (uFECs) normally cater for families, including unaccompanied children and young persons.

20.2 Unlicensed FECs can only provide category D machines under a gaming machine permit, and an unlimited number of such machines can be made available. Permits cannot be issued to vessels or vehicles.

20.3 Where a premises 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 of the Gambling Act).

20.4 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 West Mercia Police have been consulted on the application. The Licensing Authority will require applicants to demonstrate:

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

20.5 Whilst the Licensing Authority can grant or refuse an application, it cannot attach conditions to this type of permit.

20.6 The Licensing Authority will expect the applicant to show that they have 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:

- a) criminal record checks for staff,
- b) appropriate measures / training for staff as regards suspected truant school children on the premises,
- c) appropriate measures/ training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on or around the premises.

20.7 The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family Entertainment Centre (uFEC) gaming machine permit or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and uFEC are classified as 'premises'. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station, bowling alley or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building.

20.8 The Authority expects that a plan of the UFEC shall be supplied as part of the application.

N.B. Applicants and permit holders are reminded that there is no provision within the Gambling Act 2005 and associated regulations which enables the transfer of a permit from one person to another, therefore a new operator will need to apply for their own permit.

21.0 (Alcohol) Licensed Premises Gaming Machine permits/automatic entitlement

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

- (a) provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- (b) 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 current code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- (c) the premises are mainly used for gaming; or
- (d) an offence under the Gambling Act has been committed on the premises

21.2 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 current guidance issued by the Gambling Commission and such matters as it thinks relevant. This Council 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 harm or being exploited by gambling. The applicant will be expected to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be a help. As regards the protection of vulnerable persons this applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

21.3 The Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to the permit.

21.4 Where the application is for 3 or more machines, the licensing authority is unable to consider such application until the following documents have been submitted:

- a) A clear and readable plan on a scale of at least 1:100. This should clearly show the location of the following:
 - The location of any bar(s)
 - The location of any existing gaming machines
 - The proposed position of the gaming machine subject to the application
 - Location of any CCTV cameras which cover or will cover the gaming machines (area covered by CCTV to shown on plan)
 - Location of a cash dispensing machine (if present)
- b) In addition to this there shall also been included a written policy document showing how the codes of practice entitled 'Code of practice for gaming machines in clubs and premises with an alcohol licence' (or any substituted document) issued by the Gambling Commission will be addressed. A copy can be found on the [Gambling Commission website \(PDF\)](#)

We will not consider an application until the required documentation has been submitted.

21.5 It is possible that some alcohol licensed premises may not have a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as a Family Entertainment Centre or Adult Gaming Centre premises licence.

21.6 When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.

21.7 The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- It would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect
- Gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit
- The premises are mainly used or to be used for making gaming machines available, or
- An offence under the 2005 Act has been committed on the premises

21.8 Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.

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

22.0 Prize Gaming Permits

- 22.1 The Licensing Authority requires that an applicant sets out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- (a) that they understand the limits to stakes and prizes that are set out in the Regulations;
 - (b) that the gaming offered is within the law; and
 - (c) clear policies that outline steps to be taken to protect children from harm.
- 22.2 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any current Gambling Commission guidance.
- 22.3 There are statutory and mandatory conditions in the Gambling Act 2005 that the permit holder must comply with and the Licensing Authority cannot impose any additional conditions. The conditions in the Act are:
- (a) the limits on participation fees, as set out in regulations, must be complied with;
 - (b) 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;
 - (c) 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 nonmonetary prize); and
 - (d) participation in the gaming must not entitle the player to take part in any other gambling.

23.0 Club Gaming Permits and Club Machines Permits

23.1 Members Clubs may apply for a Club Gaming Permit or a Club Machines Permit. Commercial Clubs may apply for a club Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D but only 1 B3A can be sited as part of this entitlement), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D but only 1 B3A) can be sited as part of this entitlement institute but not category B3A in Commercial Clubs.

23.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include branches of the British Legion and clubs with political affiliations."

23.3 The Licensing Authority may only refuse an application on the grounds that:

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

23.4 It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track

procedure there is no opportunity for objections to be made by the Gambling Commission or the Police. The grounds on which the Licensing Authority may refuse an application under the process are:

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

24.0 Temporary Use Notices

- 24.1 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.
- 24.2 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.
- 24.3 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 for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 24.4 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’s 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.
- 24.5 The 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 Commissions Guidance to Local Authorities.

25.0 **Occasional Use Notices**

- 25.1 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. Although this Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 25.2 Occasional Use Notices will only be permitted at tracks where races or sporting events take place or will take place there.

26.0 Small Society Lotteries

26.1 The promotion or facilitating of lotteries falls within 2 categories:

- Licensed Lotteries (these require an Operating Licence from the Gambling Commission); and Exempt Lotteries

26.2 One such exemption is ‘Small Society Lotteries’, these are non-commercial and have been established and conducted for one of the following purposes:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sports, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain

26.3 Those societies wishing to operate small society lotteries must first register with the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes the Society’s principal office is situated in another area it will inform the Society as soon as possible.

26.4 The Licensing Authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the register is completed, the Licensing Authority will notify the applicant of registration.

26.5 The Licensing Authority will ask applicants to set out the purposes for which the society is established and will ask the society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the society and in particular may require a copy of the society’s constitution.

26.6 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion.

- 26.7 The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 26.8 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following guidance criteria to all small society lotteries it registers
- Tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
 - Tickets may be sold from a kiosk, in a shop or door-to-door.
- This approach is consistent with the operating licence conditions imposed by the Commission upon operators of large lotteries
- 26.9 The Licensing Authority will adopt a risk based approach towards enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
 - submission of incomplete or incorrect returns
 - breaches of the limits for small society lotteries
 - failure to submit a return
- 26.10 All small society registrations expiry at the end of each calendar year and can be renewed in the month prior to expiry.
- 26.11 All renewals require payment of the renewal fee and application form.
- 26.12 Any renewal application received after expiry will be refused and will require a new application together with the appropriate fee and application.

27.0 **Casinos**

27.1 On 27th July 2007 at a meeting of the Full Council a Resolution was passed under Section 166 of the Gambling Act 2005 not to issue casino premises licences. Details of the Proposal and Minutes can be found at: - <http://councillors.herefordshire.gov.uk/documents/s11792/Council%20report%20on%20casinos.pdf>

Adult Gaming Centres

Persons operating an adult gaming centre (AGC) must hold a gaming machines general operating licence from the Commission and have an AGC premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.

Alcohol licensed premises gaming machine permits

The Licensing Authority can issue such permits for any number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.

Applications

Applications for licences and permits.

Authorisations

This Policy relates to all authorisations, permits, licences etc, which the Licensing Authority is responsible for under the Gambling Act 2005.

Betting Machines

A machine designed or adapted for the use to bet on future real events (not Gaming Machine).

Bingo

A game of equal chance. Whilst there is no statutory definition of Bingo, generally there are two different types of bingo:

- cash bingo, where the stakes paid made up the cash prizes that were won; or
- prize bingo, where various forms of prizes were won, not directly related to the stakes paid.

Premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in

all its forms. Adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs, and any premises with a prize gaming permit, will be able to offer prize gaming, which includes prize bingo.

Casino

An arrangement whereby people are given an opportunity to participate in one or more casino games.

Children/Child

Individual who is less than 16 years old.

Club Gaming

Permit to enable commercial and non-commercial clubs. Machine Permit to provide at their premises the number of gaming machines (Category B, C or D) as set out in the regulations.

Club Gaming Permit

Permits to enable members' clubs and miners' welfare institutes (but not a commercial club) to provide at their premises the number of gaming machines (Category B, C or D), equal chance gaming and games of chance as set out in the regulations.

Code of Practice

Means any relevant current code of practice under section 24 of the Gambling Act 2005.

Default Conditions

Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

Disorder

Disorder includes anti-social behaviour (see number 2.3 of the Policy).

Equal Chance Gaming

Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

FECs

Family entertainment centres.

Occasional use notices

Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dock track and temporary tracks for races or sporting events.

Operating licence

Authorised individuals or companies to provide facilities for certain types of remote or non-remote gambling. These licences are issued by the Gambling Commission and generally cover the principal commercial forms of gambling operating. A single licence cannot authorise both remote and non-remote activities; separate operating licences are needed for this. Conditions may be attached.

Personal licence

Except for small scale operations, for each operating licence, at least one person who holds a specified management office must hold a personal licence. These licences are issued by the Gambling Commission with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.

Premises

Premises is defined in the Act as “any place”. A single premises (with the exception of a “track”) may not have more than one premises licence at any time.

Premises Licence

Authorises the provision of facilities for gambling on premises for bingo, betting including tracks, adult gaming centres and family entertainment centres. These licences will be valid for the life of the premises, subject to any review. The licence will lapse if the annual fee is not paid. These licences are transferable to someone else holding a valid operating licence.

Prize gaming permits

This permit allows the provision of facilities for gaming and prizes on specified premises. “Prize gaming” refers to gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

Temporary use notices

These licences authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling, where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.

Unlicensed family entertainment centre gaming machine permits

These allow the use of category D gaming machines in these premises to a person who occupies or plans to occupy the premises, to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.

Vulnerable persons

See section 2.7(b) of this Policy concerning the ‘definition’ of vulnerable persons

Young person

Persons who are 16 to 18 years old.

Contact Details

Telephone:- 01432 261761

e-mail:- licensing@herefordshire.gov.uk

Address:- The Licencing Section, Herefordshire Council, Plough Lane,
Hereford HR4 0LE