

GAMBLING ACT 2005

STATEMENT  
OF  
GAMBLING POLICY

**31 January 2019 to 30 January 2022**

# CONTENTS

## **PART A**

Section 1	Introduction	Page 2
Section 2	Consultation	Page 3
Section 3	Declaration	Page 3
Section 4	Scope of the Gambling Policy	Page 4
Section 5	Delegations	Page 6

## **PART B - PREMISES LICENCES**

Section 6	General Principles	Page 7
Section 7	Local Risk Assessments	Page 9
Section 8	Licensing Objectives	Page 11
Section 9	Representations	Page 14
Section 10	Conditions	Page 17
Section 11	Review of a Premises Licence	Page 19
Section 12	Types of Premises Licence	Page 20

## **PART C - NOTICES AND PERMITS**

Section 13	Notices	Page 26
Section 14	Permits	Page 27

## **PART D**

Section 15	Inspection, Enforcement and Criminal Proceedings	Page 31
Section 16	Contact Details	Page 34

## **ANNEX 1**

Map of the London Borough of Bexley	Page 36
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# PART A

## 1. Introduction

- 1.1 This document is the statement of principles (hereafter referred to as “the Gambling Policy”) approved by the London Borough of Bexley (hereafter referred to as “the Council”) in accordance with section 349 of the Gambling Act 2005 (hereafter referred to as “the Act”).
- 1.2 The purpose of the Gambling Policy is to set out the principles the Council will generally apply in exercising their function under the Act as a licensing authority. The aim of the Gambling Policy is to permit the use of premises for gambling as set out in section 153 of the Act whilst promoting the three licensing objectives, which 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**
- 1.3 The Borough of Bexley is one of thirty-two London Boroughs, which, together with the City of London Corporation, make up the area of Greater London. The London Boroughs of Greenwich and Bromley and the Kent Boroughs of Dartford and Sevenoaks border Bexley. The River Thames runs along the Borough boundary for five miles to the North. As an outer London Borough, Bexley offers the very best of town and country. Within its boundaries are award winning parks and open spaces, historic houses and attractive waterways. Bexley has some of the most affordable housing in London, good schools and diverse neighbourhoods ranging from the urban to the rural. Within Bexley lies Bexleyheath, one of South London’s most successful and lively town centres, together with a number of smaller thriving centres. Bexley has easy access to the facilities of central London, to major shopping centres at Bluewater and Lakeside and to the beauty of rural Kent as well as the international rail terminal at Ashford, the Channel Ports and Tunnel.
- 1.4 A map of the London Borough of Bexley is attached at Annex 1 to the Gambling Policy (see page 36).
- 1.5 The Gambling Policy was endorsed by the Council on 07 November 2018, and is effective between 31 January 2019 and 30 January 2022.
- 1.6 Notice of the Council’s intention to publish the Gambling Policy was given via the Council’s website and in a local newspaper circulating in the area covered by the Gambling Policy. The Gambling Policy was published one month prior to the date it became effective.
- 1.7 During this three-year period that the Gambling Policy is in force it will be kept under review. Any revision will be the subject of further consultation and approval by the Council. Notification of any revision will be advertised and published in a similar way to the manner in which the initial Gambling Policy was.
- 1.8 Copies of the Gambling Policy are available via the Council’s website, in the

reception area of the main Council Civic Offices and in Bexley's public libraries. A copy will be sent to any person on request to the Licensing Partnership (see section 16 for contact details).

## **2. Consultation**

2.1 In accordance with the Act the Policy has been prepared in consultation with the following parties:

- Elected Members of London Borough of Bexley
- Neighbouring Authorities
- Bodies designated under section 157 of the Act as 'Responsible Authorities'
- Town Centre Forums, Partnerships and Managers
- Person/ bodies representative of local residents
- Person/ bodies representative of gambling businesses
- Representatives of persons or business who hold premises licences
- Organisations working with people who are problem gamblers
- Representatives of health care organisations
- Representatives of voluntary and community organisations working with children and young people

The names and addresses of those persons/bodies consulted in the preparation of this Gambling Policy are available on request to the Licensing Partnership (see section 16 for contact details).

2.2 The consultation took place between the 8 week period commencing 1 August 2018 and 30 September 2018. Consultation documents were provided on the Council's website.

2.3 The full list of comments made, and the consideration by the Council of those comments, is available on request to the Licensing Partnership (see section 16 for contact details).

2.4 Appropriate weight has been given to the views of those consulted, and in determining the weight given the factors the Council has taken into account include:

- Who made the representations, including their expertise or interest;
- Relevance of the factors to the licensing objectives;
- How many other people expressed the same or similar views;
- The relevance of the representations, that is did they relate to matters the Council should take into account.

## **3. Declaration**

3.1 In producing the Gambling Policy the Council has had regard to:

- The licensing objectives set out in the Act;
- The guidance issued by the Gambling Commission ;
- The draft councilors handbook on gambling regulation issued by the Local Government Association;
- Any relevant Codes of Practice issued by the Gambling Commission;
- Any relevant Regulations issued by the Secretary of State; and

- The response of those consulted on the Gambling Policy.
- 3.2 Nothing in the Gambling Policy overrides the right of any person to make an application, make representations about an application, or apply for a review of a licence.
- 3.3 The Council will consider each application on its own merits, in accordance with the statutory requirements of the Act.
- 3.4 However, the Council may, if it considers it right to do so, depart from the Gambling Policy, as long as it has been understood and taken into account. The Council should have strong and defensible reasons for any departure.
- 3.5 The Council will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any Guidance issued by the Commission to local authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 3.6 The Council will maintain a register of Licences and Permits issued under the Act, together with such other information as may be prescribed. The register and information will be available for inspection by members of the public at all reasonable times. The Council will make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request. The Council may refuse to provide a copy of an entry in the register or of information unless the person seeking it pays a reasonable fee.

Any person wanting information on the content of the register or the cost of a copy of an entry from the register should contact the Licensing Partnership (see section 16 for contact details).

- 3.7 The Council has not passed a resolution under Section 166 of the Act excluding the issue of casino licences. The Council is aware that it has the power to do so, should there be material evidence to support such a decision, and that any decision to pass such a resolution must be made by the Full Council. Should the Council decide in the future to pass a 'no casino' resolution, it will update the Gambling Policy with details of that resolution.
- 3.8 In carrying out its functions under the Act the Council is aware that they are subject to the Human Rights Act, and in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;
  - Article 6 – right to a fair hearing;
  - Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life; and
  - Article 10 – right to freedom of expression.

## **4. Scope of the Gambling Policy**

- 4.1 'Gambling' is defined in the Act as either, gaming, betting or taking part in a lottery.

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

4.2 The Act provides for three categories of licences, which are:

- Operating Licences;
- Personal Licences; and
- Premises Licences.

4.3 The Council will be responsible for issuing Premises Licences and the Commission for issuing Operating and Personal Licences. Licensing remote gambling falls to the Commission, via an Operator's Licence. (Contact details for the Commission are provided in section 16 of the Gambling Policy).

4.4 The main function of the Council under the Act is to:

- Licence premises for gambling activities
- Grant permits for gambling and gaming machines in clubs
- Regulate gaming and gaming machines in alcohol licensed premises
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines
- Grant permits for prize gaming
- Consider notices given for the temporary use of premises for gaming
- Consider occasional use notices for betting at tracks
- Register small societies lotteries

4.5 Premises Licences granted by the Council may authorise the provision of facilities on:

- Casino premises;
- Bingo premises;
- Betting premises, including tracks;
- Adult gaming centres; and
- Family entertainment centres.

4.6 Except in the case of tracks, Premises Licences may only be issued to people with a relevant Operating Licence granted by the Commission. Premises Licences are transferable to someone else holding a valid Operating Licence. The Council may attach conditions to Premises Licences (see section 10).

4.7 Other forms of authorisation issued by the Council may include authorising the temporary use of premises, occasional use notices, five different sorts of permit for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol- licensed premises, club gaming and club gaming machines.

4.8 Application forms and information on application fees is available via the Council's website [www.bexley.gov.uk](http://www.bexley.gov.uk), or by contacting the Licensing Partnership (see section 16 for contact details).

## 5. Delegations

5.1 The table below provides a summary of the Council's delegations as permitted under the Act. **X** indicates the level to which decisions are delegated.

Matter to be dealt with	Full Council	Licensing Committee	Licensing Sub-Committee	Officers
Final approval of the three year Gambling Policy	<b>X</b>			
Gambling Policy not to permit casinos	<b>X</b>			
Fee setting (if delegated by full council)		<b>X</b>		
Applications for new grant or variation of a premises licences where representations have been received and not withdrawn			<b>X</b>	
Applications for new grant or variation of a premises licences where no representations have been made, or where any representations made have been withdrawn				<b>X</b>
Application for the transfer of a premises licence where representations have been received from the Commission or responsible authority			<b>X</b>	
Application for the transfer of a premises licence where no representations received from the Commission or responsible authority				<b>X</b>
Application for a provisional statement where representations have been received and not withdrawn			<b>X</b>	
Application for a provisional statement where no representations have been made, or where any representations made have been withdrawn				<b>X</b>
Review of a premises licence			<b>X</b>	
Application for club gaming/club machine permits where objections have been received and not withdrawn			<b>X</b>	
Application for club gaming/club machine permits where no objections have been received or where any objections made have been withdrawn				<b>X</b>
Cancellation of club gaming/club machine permits			<b>X</b>	
Applications for other permits				<b>X</b>
Cancellation of licensed premises gaming machine permits				<b>X</b>
Consideration of temporary use notice				<b>X</b>
Decision to give a counter notice to a temporary use notice			<b>X</b>	
Revocation following non payment of annual fee				<b>X</b>

## PART B - PREMISES LICENCES

### 6. General Principles

- 6.1 This section sets out the principles the Council will generally apply in exercising their function under the Act in relation to premises licences.
- 6.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- Casino premises;
  - Bingo premises;
  - Betting premises, including tracks and premises used by betting intermediaries;
  - Adult gaming centres (for category B3, B4, C and D machines); and
  - Family entertainment centres (for category C and D machines) (The Council may also issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only – see section 12 for more information on permits).
- 6.3 In exercising most of their functions under the Act the Council will have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- The Council is aware that these objectives are not the same as those in the Licensing Act 2003, and in particular that they do not include considerations in relation to public safety or prevention of public nuisance. Furthermore the Council has noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 6.4 The Council's aim is to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Commission
  - In accordance with any relevant guidance issued by the Commission
  - Reasonably consistent with the licensing objectives;
  - In accordance with the Council's Gambling Policy;
- 6.5 In accordance with section 153 of the Act the Council will not have regard to the expected demand for gambling premises that are the subject of an application. However the Council may comment on the location of an applicant premises in so far as the location relates to the licensing objectives.
- 6.6 The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation and will avoid duplication with other regulatory regimes so far as it is possible.
- 6.7 The Council will not take into account an irrelevant matter, which is a matter that is



not related to gambling and the licensing objectives. One irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulation approval for their proposal.

- 6.8 The Council is aware that moral objections to gambling are not valid reasons to reject an application.
- 6.9 The Council is aware that a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can reasonably be regarded as being different premises. However, whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The Council agrees with the Commission and does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises. The Council will ensure that mandatory conditions relating to access between premises are observed.
- 6.10 The Council will also take particular care when considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Council will be aware of the following:
- The need to protect children from being harmed by gambling. This 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 and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
  - Customers should be able to participate in the activity named on the premises licence.
- 6.11 When determining whether two or more premises are truly separate the Council may have regard to:
- Is a separate registration for business rates in place for the premises;
  - Is the premises neighbouring premises owned by the same person or someone else;
  - Can each premises be accessed from the street or a public passageway; and
  - Can the premises only be accessed from any other gambling premises.
- 6.12 When considering applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed) the Council will take into account whether children can gain access; the compatibility of the two establishments; and their ability to comply with the requirements of the Act. In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

- 6.13 The Council is aware that the proper application of section 152 of the Act means that different premises licences cannot apply in respect of single premises at different times, although a licence may authorise more than one type of gambling. The Council is aware this rule does not apply to tracks, which may be subject to more than one premises licence, provided each licence relates to a specific area of the track.
- 6.14 As the Court has held in a 2008 case (*The Queen (on the application of) Betting Shop Services Limited –v- Southend-on-Sea Borough Council* [2008] EWHC 105 (Admin)), operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

### **Good practice in regulation**

- 6.15 When exercising a specified regulatory function, the Council will comply with the duty the Legislative and Regulatory Reform Act 2006 places on it to have regard to the statutory principles of good regulation. That is that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed.
- 6.16 The Council will also have regard to the requirements of the ‘Regulators’ Code’

### **Exchange of Information**

- 6.17 The Council acknowledges that shared regulation depends on effective partnerships and collaboration; and that the exchange of information between it and the Commission is an important aspect of that. Furthermore the Council understands that it has a particular role to play with regard to sharing information about gambling activity at a local level.
- 6.18 The Council confirms that in relation to ‘information sharing’ it will act in accordance with the Act: together with other any relevant legislation; will apply the principles of better regulation; and will endeavour to comply with the Guidance issued by the Commission.

## **7. Local Risk Assessments**

- 7.1 The ‘*Licence Conditions and Codes of Practice (LCCP)*’ issued by the Commission formalises the need for operators to consider local risks.
- 7.2 From April 2016 the ‘*Social responsibility (SR) Code 10.1.1*’ (issued by the Commission) will require applicants for the new grant of premises licence and existing licence holders to assess individual premises in order to identify any local risk the provision of gambling facilities may pose on the promotion of the licensing objectives; and to have policies, procedures and control measures to mitigate those risks. Licence holders will also be required to update an assessment:

- When applying for a variation of a premises licence;
- To take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement; and
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

7.3 From April 2016 the risk assessment compiled at the time that an application for the new grant, or for the variation, of a premises licence should be shared with the Council. Furthermore, should the Council have concerns about the operation of an existing licensed premise in relation to new or existing risks they may request that the licence holder to share a copy of its own risk assessment with them.

7.4 The Council expects an applicant or licence holder, when carrying out their risk assessment, to demonstrate that they have considered matters relevant to the locality of the applicant premises, such as:

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

**Matters relating to vulnerable adults, including;**

- Information held by the licence holder regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

**Matters relating to children and young persons, including;**

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling.

7.5 A risk assessment should primarily concentrate on the steps and applicant or licence holder intends to take having had regard the licensing objectives. These should include:

- Details of training policies and training undertaken by staff
- Information of age verification procedure and how refusals to serve / admit on age grounds are recorded
- Location of age restricted gaming machines
- Keeping an 'incident' book and recording relevant incidents in or outside the premises, e.g. anti-social behaviour
- Approach to managing self-exclusion
- Involvement / impact of any work in local schemes or partnership working with other local businesses
- Membership of Bexley Betwatch

The above list is not exhaustive it merely provided examples of matters that may be relevant to the promotion of the licensing objectives

- 7.6 The licensing authority expects a copy of the risk assessment to be held at each premises so that it can be inspected by officials and staff alike.
- 7.7 The Council has not undertaken any local area assessments. The local neighbourhood police team will be able to provide current information on any crime and disorder or anti-social behaviour issues occurring in the locality to an applicant or licensed premises holder

## **8. Licensing Objectives**

- 8.1 This section provides additional information in relation to the principles the Council will apply in regard to the three licensing objectives.

### **Objective 1 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

- 8.2. The Council acknowledges that the Commission will play a leading role in preventing gambling from being a source of crime.
- 8.3 However, if during the course of considering a premises licence application, or at any other time, the Council receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns will be brought to the attention of the Commission without delay.
- 8.4 The Council will consider the location of premises in the context of this licensing objective. For example, if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, the Council will consider what (if any) controls might be appropriate to prevent those premises becoming a source of crime. This might include, where there is evidence in that particular circumstance that they are required, conditions being put on the licence, such as a requirement for door supervisors. Furthermore, the Council will consider whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder; and whether sufficient management controls are proposed, or are in place.
- 8.5 The Council notes that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than nuisance.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

The Licensing Authority will construe “disorder” as activity that is more serious and disruptive than mere nuisance. In particular issues such as

- Shouting, intimidation and aggressive behaviour from customers loitering outside the premises
- Criminal damage from customers kicking neighbouring properties, street furniture and vehicles
- Urinating in public spaces.

This list is not mandatory, nor exhaustive, and is merely for indicative purposes.

However, the Council may use other powers to deal with premises that are causing a nuisance.

- 8.6. Should there be persistent or serious disorder problems connected with gambling or the operation of the premises that an operator could or should do more to prevent; the Council will bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence. However, the Council recognises that operators have no power or duty to police what happens outside premises and cannot be made responsible for what happens outside unless it is connected with gambling or the operation of the premises.
- 8.7 In relation to preventing disorder, the Council does have the ability under section 169 of the Act to impose licence conditions. However, conditions will only be imposed where there is evidence in that particular circumstance that they are required.

### **Objective 2 - Ensuring that gambling is conducted in a fair and open way**

- 8.8 The Council acknowledges that the Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business, and therefore subject to an operating licence, or the individual and therefore subject to a personal licence.
- 8.9 The Council will however have a role to play in respect of the licensing of tracks, as the track operator will not necessarily have an operating licence issued by the Commission. In such instances the Council may, where there is evidence in that particular circumstance that they are required, consider the imposition of conditions on the premises licence to ensure that the environment in which the betting takes place is suitable.
- 8.10 The Council has noted that the Commission will achieve the promotion of this objective by working to ensure that:
- Operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
  - Easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or

- winning, and the terms and conditions on which business is conducted;
- The rules are fair;
- Advertising is not misleading;
- The results of events and competitions on which commercial gambling takes place are made public; and
- Machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

8.11 The Council will bring any concerns it may have over the practical application of this objective to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence, or individual to hold a personal licence.

**Objective 3 - Protecting children and other vulnerable people from being harmed or exploited by gambling**

8.12 The Council understands that, with limited exceptions, the intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. Furthermore the Council acknowledges that the objective in relation to children is explicitly to protect them from being “harmed or exploited by gambling”; and that this requires there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

8.13 In carrying out its function under the Act the Council will consider whether specific measures will be needed to protect children on particular categories of premises. This may include requirements such as supervision of entrances; segregation of gambling from areas frequented by children and supervision of gaming machines in licensed family entertainment centres (FECs). These considerations will also be particularly relevant on tracks (where children will be permitted in the betting areas on race-days).

8.14 To assist those licensed premises that are subject to a mandatory condition that prohibits entry to persons under the age of 18 the Council would recommend that, as a minimum, a ‘Think 21’ policy is in operation. This means that whilst persons who are aged 18 or over may be permitted entry to the premises any person who appears under the age of 21 is challenged and required to provide appropriate identification (ID). Appropriate ID is either a passport, photo driving licence or a photo ID card bearing the PASS hologram.

8.15 The Council will consider, in relation to particular premises, whether any special considerations apply in relation to the protection of “vulnerable persons”. Any such considerations will be balanced against the Council’s aim to permit the use of premises for gambling. In making such considerations the Council will have regard to the fact that whilst the Commission has not defined “vulnerable persons”, it has for regulatory purposes assumed that this group includes people who:

- Gamble more than they want to;
- People who gamble beyond their means; and
- May not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

- 8.16 The Council expects that the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children to be identified in the operators local area risk assessment; which would then outline policies and procedures operated by the applicant to ensure that those who may not gamble or enter the premises do not do so.

## 9. Representations

- 9.1 In dealing with an application for a premises licence the Council is obliged to consider representations from two categories of person referred to in the Act as 'responsible authorities' and 'interested parties'.
- 9.2 Upon receipt of representations, the Council must determine whether or not the representations are admissible. A representation is inadmissible if not made by a responsible authority or an interested party. After that, the Council must then determine its relevance. The only representations that are likely to be relevant are those that relate to the licensing objectives, or that raise issues under the Gambling Policy, the Commission's guidance or relevant codes of practice.

### Responsible Authorities

- 9.3 Section 157 of the Act identifies the bodies that are to be treated as 'responsible authorities'. They are:
- The licensing authority in whose area the premise is wholly/partly situated;
  - The Gambling Commission;
  - The chief officer of police/chief constable for the area in which the premises is wholly or partially situated;
  - The fire and rescue authority for the same area;
  - The local planning authority;
  - An authority that has functions in relation to pollution of the environment or harm to human health;
  - Anybody, designated in writing by the licensing authority as competent to advise about the protection of children from harm;
  - HM Revenue & Customs; and
  - Any other person prescribed in regulations by the Secretary of State.
- 9.4 Section 211(4) of the Act provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. This would include:
- The Environment Agency;
  - The British Waterways Board; and
  - The Secretary of State (Note: in practice, the Secretary of State for Transport who acts through the Maritime and Coastguard Agency.)
- 9.5 The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act. That is to designate, in writing, a body that is competent to advise the Council about the protection of

children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the Borough of Bexley; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 9.6 The Council designates its Trading Standards Service for this purpose; and in doing is satisfied that the principals set out in paragraph 9.5 are met.
- 9.7 The Council notes that under the Act there is no obligation on responsible authorities to respond to applications for premises licences if they do not wish to do so, but would encourage them to do so in order that their views on an application are transparent to the applicant and to the residents of the borough.
- 9.8 Contact details for the responsible authorities are provided in section 16 of the Gambling Policy

### **Interested Parties**

- 9.9 Section 158 of the Act defines an 'interested party' as a person who:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
  - Has business interests that might be affected by the authorised activities; or
  - Represents persons in either of these two groups.
- 9.10 As explained in paragraph 9.2 the Council must first determine that the person making the representations qualifies as an 'interested party'. The factors the Council may take into account when determining what constitutes "sufficiently close to the premises" include:
- The size of the premises;
  - The nature of the premises;
  - The distance of the premises from the location of the person making the representation;
  - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
  - The circumstances of the complainant, which is not the personal characteristics of the complainant, but the interests of the complainant that may be relevant to the distance from the premises. For example, it could be reasonable for the Council to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.
- 9.11 In respect of persons with business interests that could be affected the Council will need to be satisfied that the relevant business is likely to be affected. In this respect, the Council will have regard to the fact that the "demand test" in previous legislation has not been preserved. Factors that are likely to be relevant and therefore taken into account by the Council include:
- The size of the premises;
  - The 'catchment' area of the premises (i.e. how far people travel to visit); and



- Whether the person making the representation has business interests in that catchment area that might be affected.
- 9.12 The Council will give a wide interpretation of the term ‘persons who have business interests that may be affected’, which may include partnerships, charities, faith groups and medical practices.
- 9.13 The Council will take care to distinguish between deciding whether a person is an interested party (i.e. whether their representations are admissible) and forming a view on the substance of their representations (i.e. whether their representations are relevant).
- 9.14 When considering the relevance of representations, and particularly whether a representation is ‘frivolous’ or ‘vexatious’, the matters the Council may consider are likely to include:
- Who is making the representations, and whether there is a history of making representations that are not relevant;
  - Whether the representations raise a ‘relevant’ issue;
  - Whether the representations raise issues specifically to do with the applicant premises.
- 9.15 The Council considers that the third category of an ‘interested party’, that is persons that represent residents or business, may include democratically elected representatives such as local Councillor’s and Members of Parliament, and bodies such as trade associations and trade unions, and residents’ and tenants’ associations. In other cases the Council will probably wish to satisfy themselves on a case by case basis, for example a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises. In appropriate cases the Council may require written evidence that the person acts in a representative capacity, for example a letter from the person who is being represented.
- 9.16 The Council will have regard to anything an interested party says about his status to make representations.
- 9.17 Where an ‘interested party’ makes relevant representation, which are not considered to be ‘frivolous’ or ‘vexatious’, a copy of their written representations, including their name and address will be sent to the applicant and will be included in the report prepared for the licensing hearing, which is a public document. However, the Council accepts that there may be occasions when an ‘interested party’ does not want their name and address to be released to an applicant or included in a public document and has a protocol in place to deal with such occasions, a copy of which can be provided by contacting the Licensing Partnership (see section 16 for contact details).
- 9.18 Representation received by the Council that do not supply the name and address of the sender will not be considered as it will not be possible to ascertain if they meet the ‘relevancy test’.
- 9.19 Guidance notes for the benefit of interested parties who wish to make representations to a premises licence application are available via the Council’s website [www.bexley.gov.uk](http://www.bexley.gov.uk) or by contacting the Licensing Partnership (see

section 16 for contact details.

## 10. Conditions

- 10.1 Conditions on premises licences should relate only to gambling, as considered appropriate in the light of the principles to be applied by the Council under section 153 of the Act. Accordingly, if other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not necessary or appropriate to impose the same or similar duties in conditions on a premises licence issued in accordance with the Act. Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities or concerns, the Act does not affect the continued use of such powers.
- 10.2 The Act provides that conditions may be attached to premises licences. As with other types of licence, conditions may be attached in a number of ways:
- They may attach automatically, having been set out in the Act;
  - They may attach through regulations;
  - They may be attached to operating and personal licences by the Commission; or
  - They may be attached to premises licences by licensing authorities.
- 10.3 Conditions may sometimes be general in nature (i.e. they attach to all licences or all licences of a particular class) or they may be specific to a particular licence.
- 10.4 The Council has no discretion to decide not to include, or to modify, any of the conditions set out in the Act.
- 10.5 Conditions that will be attached through regulations fall into two categories. The first are mandatory conditions under section 167 of the Act. This section provides for the Secretary of State to set out in regulations conditions that must be attached to premises licences.
- 10.6 The second category relates to default conditions, which may be imposed under section 168 of the Act. This section of the Act provides for the Secretary of State to make default conditions, which will apply unless the Council decides to exclude them using its powers under section 169 of the Act.
- 10.7 Both mandatory and default conditions may apply to all premises licences, to a class of premises licence or to licences for specified circumstances.
- 10.8 The Council has noted that any mandatory conditions set by the Secretary of State have been done so with the intention that no further regulation in relation to that matter is required. Therefore, it is considered extremely unlikely that the Council will need to impose individual conditions imposing a more restrictive regime in relation to matters that have already been dealt with by mandatory conditions. The Council will only consider doing so where there are regulatory concerns of an exceptional nature and any additional licence conditions will relate to the licensing objectives.
- 10.9 The Council has more flexibility in relation to default conditions, as it may decide to exclude a default condition, and substitute it with one that is either more or less restrictive. The Council is however aware that default conditions are intended to be the basic industry norm; and while given the requirements of section 153 of the Act, the Commission would expect default conditions to be

excluded and replaced with less rigid conditions on a relatively irregular basis. The Council will ensure that they have clear regulatory reasons for excluding default conditions and replacing them with more restrictive ones.

- 10.10 The final category of conditions relate to those that may be imposed by the Council. Section 169 of the Act gives the Council:
- The ability to exclude from premises licences any default conditions that have been imposed under section 168; and
  - The power to impose conditions on the premises licences that they issue.
- 10.11 The Council is aware that they have a duty to act in accordance with the principles set out in section 153 of the Act, and as it is their aim to permit the use of premises for gambling, they will not attach conditions that limit the use of premises for gambling except where it is necessary as a result of the requirement to act:
- In accordance with this guidance, the Gambling Commission codes of practice or the licensing policy statement; or
  - In a way that is reasonably consistent with the licensing objectives.
- 10.12 The Council will not normally turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.
- 10.13 Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, the Council will ensure that the premises licence conditions are:
- Relevant to the need to make the proposed building suitable as a gambling facility;
  - Directly related to the premises and the type of licence applied for;
  - Fairly and reasonably related to the scale and type of premises; and
  - Reasonable in all other respects.
- 10.14 The Council has noted that it is the Commission's view that the conditions necessary for the general good conduct of gambling premises will be those set as default and mandatory conditions by the Secretary of State. Therefore a pool of additional conditions published by the Commission will not be necessary. The Council is however aware that, where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Council will be able to attach individual conditions to address this.
- 10.15 In relation to preventing disorder, the Council does have the ability under section 169 of the Act to impose licence conditions. These could include a requirement for door supervision as provided for in section 178. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. An exemption to this requirement is granted to holders of casino and bingo premises licences under the Private Security Industry Act 2001 in respect of their in house staff. However, contract staff employed as door supervisors at such premises will still need to be licensed by the SIA.
- 10.16 The Council will take decisions on individual conditions on a case-by-case basis.

10.17 The Council is aware that the Act sets out certain matters that may not be the subject of conditions. The relevant sections are:

- Section 169 (4), which prohibits the Council from imposing a condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Section 172 (10), which provides that conditions may not relate to gaming machine categories, numbers, or method of operation;
- Section 170, which provides that membership of a club or body cannot be required by attaching a condition to the premises licence. The Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- Section 171, which prevents the Council from imposing conditions in relation to stakes, fees, winnings or prizes.

## **11. Review of a Premises Licence**

11.1 A premises licence may be reviewed by the Council of its own volition or following the receipt of an application for a review from an Interested Party or Responsible Authority.

11.2 Reviews initiated by the Council may be in relation to a particular class of premises licence or in relation to particular premises.

11.3 In relation to a class of premises, the Council may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. When undertaking these general reviews the Council 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.

11.4 In relation to particular premises, the Council may review any matter connected to the use made of the premises if it has reason to suspect that 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.

11.5 The Council may (but need not) reject an application for a review if it thinks that the grounds on which the review is sought:

- Are not relevant to the principles that must be applied by the Council in accordance with section 153 of the Act.
- The grounds are frivolous;
- The grounds are vexatious;
- The grounds “will certainly not” cause the Council 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 review application relating to the same premises. In such instances the Council must take into account how much time has passed since the earlier application; or
- Are substantially the same as representations made at the time the application for a premises licence was considered. Once again the Council will take into account the period of time that has passed since the representations were made, but the underlying requirement is that the Council should not review the licence on the basis of the same arguments

considered on the grant of the premises licence.

- 11.6 Any decision the Council makes to grant a review will not amount to pre-judging the outcome of a review.
- 11.7 The purpose of the review of a premises licence is for the Council to decide whether it should take any action in relation to the licence and in doing so the Council will have regard to the principles set out in section 153 of the Act, as well as any relevant representations. In particular, the Council may take appropriate action 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.

## **12. Types of Premises Licence**

### **12.1 Provisional Statements:**

- 12.2 The licensing authority notes the Gambling Commission's Guidance for the Gambling Commission which states that:

As the Court has held in a 2008 case (The Queen (on the application of) Betting Shop Services Limited –v- Southend-on-Sea Borough Council [2008] EWHC 105 (Admin)), operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 12.3 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (i) Which could not have been raised by objectors at the provisional licence stage; or
- (ii) Which is in the authority's opinion reflect a change in the operator's circumstances.

### **Adult Gaming Centres (AGC):**

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

12.5 The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- 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.

#### **(Licensed) Family Entertainment Centres (FECs):**

12.6 Family Entertainment Centres are wholly or mainly used for having gaming machines available for use.

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

12.8 The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

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

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

#### **Betting (Other):**

12.9 This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop, and includes an

entitlement to operate up to four gaming machines of category B2, B3, B4, C or D, and any number of betting machines.

- 12.10 The council takes note of the Gambling Commission suggestion that licensing authorities will want to consider restricting the number and location of betting machines in respect of applications for betting premises licences. The council when considering the number/ nature/ circumstances of betting machines an operator wants to offer will follow the Gambling Commission's Guidance and take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

#### **Gaming machines in gambling premises:**

- 12.11 Gaming machines in gambling premises – betting  
All non-remote general betting operating licences, except where betting is offered under a 2005 Act casino premises licence
- Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.
  - Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
  - Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting facilities
- 12.12 In determining the application consideration will be given to appropriate measures/licensing conditions to address the matters listed below
- Proof of age schemes
  - CCTV
  - Entry control system
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-barring schemes
  - Provision of information leaflets/helpline numbers for organisations such as GamCare

***This list is not exhaustive, and is merely indicative of examples of measures - the council will expect applicants to offer their own measures to meet the licensing objectives.***

#### **Betting Tracks including other sporting venues:**

- 12.13 In determining applications for betting at tracks, consideration will be given to appropriate measures/licensing conditions to address the matters listed below:
- Proof of age schemes such as Think 21
  - CCTV

- Entry control system
- Supervision of entrances/ machine areas
- Physical separation of areas
- Notices/ signage
- Opening hours
- Provision of responsible gambling information
- Provision of policies and procedures in relation to social responsibility measures as set out below
- Staffing levels
- Staff training and records of staff training
- Recording of incidents such as underage challenges, customer interactions for problem gambling, self-exclusions and complaints and disputes relating to gambling
- Details of action to be taken where an on course bookmaker has breached their Gambling Commission Operating Licence conditions repeatedly, for example where children have been able to gamble.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

- 12.14 Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.
- 12.15 A track Premises Licence does not in itself entitle the holder to provide gaming machines. However, by virtue of section 172(9) of the Act, track owners who hold both a track Premises Licence AND a pool betting Operating Licence issued by the Gambling Commission (this currently only applies to greyhound tracks) may provide up to four Category B2 to D gaming machines on the track.
- 12.16 The Licensing Authority will consider the location of gaming machines at tracks, and applicants for track Premises Licences will need to demonstrate that, where the applicant holds or seeks a pool betting Operating Licence and is going to use their full entitlement to gaming machines, these machines are located in areas from which children are excluded. The applicant will be required to provide information as to what measures it will put in place around the gaming machines to ensure that children are excluded.
- 12.17 The Licensing Authority will expect applicants to include detailed plans for the track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”), pool betting, and any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence. Any such plans must also contain the information prescribed by regulations.
- 12.18 In respect of staff training, the Licensing Authority would expect staff involved with the provision of gambling facilities at the track to be trained in social responsibility measures including, but not limited to, age verification, problem gambling indicators and action to be taken, self-exclusion, complaints procedures and money laundering indicators and action to be taken. Records of such training should be retained by the track management showing the subjects the staff member was



trained in and the date training took place. These should be signed off by the staff member and training should be refreshed at least annually.

- 12.19 The Licensing Authority expects track operators to have policies and procedures in place to deal with age verification, self-exclusion, money laundering, complaints and disputes and problem gambling as a minimum and to ensure that all staff involved in the provision of gambling facilities are aware of these policies and procedures and have been trained in their implementation.
- 12.20 The Licensing Authority expects track management to ensure appropriate problem gambling information is provided commensurate to the size and layout of the premises. This should be in the form of posters and also leaflets which a customer can take away. Leaflets should be provided in areas where they can be taken away discreetly by the customer.
- 12.21 Section 152 of the Act permits tracks to be the subject of multiple Premises Licences.
- 12.22 Access between premises licensed for gambling and non-gambling areas will be considered carefully by the Licensing Authority for the following reasons:
- To prevent operators from attempting to circumvent the Act by artificially subdividing premises and securing separate Premises Licences for its composite parts;
  - To ensure operators do not circumvent the regulations governing the maximum number of gaming machines that may be provided at specific premises;
  - To ensure people who have entered premises to take part in one form of gambling are not exposed to another form of gambling;
  - To ensure there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
  - To ensure all gambling premises have publicly accessible entrances;
  - To ensure gambling premises are not developed in 'back rooms' of other commercial premises.

#### **Casinos:**

- 12.23 This Licensing Authority will have regard to the Gambling Commission's guidance.

#### **Bingo:**

- 12.24 The licensing authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.
- 12.25 To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the licensing authority will need to be satisfied that bingo is regularly played in any premises for which a Premises licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.

### **Temporary Use Notices:**

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

### **Occasional Use Notices:**

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

### **Travelling Fairs:**

- 12.28 It will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 12.29 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 12.30 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **PART C - NOTICES AND PERMITS**

### **13. Notices**

#### **Temporary Use Notices**

- 13.1 Part 9 of the Act sets out the position in relation to temporary use notices. These 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. However, the same 'set of premises' may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.
- 13.2 The Licensing Partnership understands that the reference to a "set of premises" in section 218 of the Act is not the same as the reference to "premises" in part 8 of the Act. When considering whether a place falls within the definition of "a set of premises", the Council will look at, amongst other things, the ownership/occupation and control of the premises.
- 13.3 The Licensing Partnership will 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.
- 13.4 The principles that the Council will apply in issuing a counter-notice are the same as those in determining premises licence applications. In particular, the Council will aim to permit the provision of facilities for gambling under a temporary use notice subject to its view as to whether to do so accords with sec.153 of the Act (see sections 6 & 7).

#### **Occasional Use Notices**

- 13.5 Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, an occasional use notice may permit the betting without the need for a full premises licence.
- 13.6 The intention behind occasional use notices is to permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The occasional use notice dispenses with the need for a betting premises licence for the track in these circumstances.
- 13.7 The Council has noted that the meaning of "track" in the Act covers not just a horse racecourse or dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place. This means that land that has a number of uses, one of which fulfils the definition of track, can qualify for the occasional use notice provisions. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 13.8 The Council will provide the Commission with any requisite information about, for example, the tracks that have been subject to occasional use notices and the number of occasional use notices that have been submitted

## 14. Permits

- 14.1 The Act introduces a range of permits for gambling that are granted by the authority, Permits are required where premises provide a gambling facility and either the stakes or prizes are very low, or gambling is not the main function of the premises.
- 14.2 Permits issued by the Licensing Partnership will regulate gambling and the use of gaming machines in a specific premises. The various permits the Partnership is responsible for issuing are:
- Family Entertainment Centre (FEC) Gaming Machine Permits
  - Club Gaming Permits and Club Machine Permits
  - Alcohol Licensed Premises Gaming Machine Permits
  - Prize Gaming Permits
- 14.3 Holders of permits for gaming machines (except unlicensed FEC's) will be required to comply with codes of practice, drawn up by the Commission on the location and operation of machines.
- 14.4 The Licensing Partnership may only grant or reject an application for a permit. The Partnership understands that no conditions may be attached to a permit. The Partnership may however vary the number of machines sought in respect of applications for an Alcohol Licensed Premises Gaming Machine Permit (see paragraph 14.23 below).

### Family Entertainment Centre (FEC) Gaming Machine Permits

- 14.5 Family entertainment centres (FECs) cater for families, including unaccompanied children and young persons. There are two types of FECs, licensed and unlicensed.
- 14.6 To be classified as 'licensed' a FEC will need both an operating licence from the Commission and a premises licence from the Council. A licensed FEC is able to offer Category C and D gaming machines and in accordance with Section 290 of the Act is able to provide any type of prize gaming.
- 14.7 FECs that offer only category D gaming machines need only secure a gaming machine permit from the Council, therefore they will be 'unlicensed'. Unlicensed FECs that have the benefit of a gaming machine permit will be able to offer equal chance prize gaming without the need for a prize gaming permit.
- 14.8 The Licensing Partnership will specify the form and manner in which applications for a FEC Gaming Machine Permit should be made, and in doing so, as the premises will particularly appeal to children and young persons, will give weight to child protection issues and have regard to the Commissions Guidance.
- 14.9 An **unlicensed** family entertainment centre is only entitled to make category D machines available. This is reflected by the very light touch form of regulation provided by the uFEC permit. The entity making machines available on the premises (the arcade operator) does not need a Gambling Commission operating licence. However, the entity supplying machines to the business (the machine supplier) must be licensed by the Gambling Commission.

- 14.10 A **licensed** family entertainment centre is entitled to make both category C and D machines available. It is subject to similar controls to many other gambling businesses – the premises need a full premises licence from the licensing authority and the entity making machines available on the premises requires a Gambling Commission operating licence, as does the supplier of the machines.
- 14.11 Only premises that are wholly or mainly used for making gaming machines available may hold a uFEC gaming machine permit or an FEC premises licence. Both a licensed FEC and an uFEC are classified as premises.
- 14.12 As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area. A more detailed explanation of what constitutes ‘a premises’ can be found in [Guidance to licensing authorities](#) (issued by the Gambling Commission).  
Gaming machines, which should be contained within the uFEC or FEC premises, should not be located in corridors and walkways which form part of the larger building.

### **Issuing uFEC permits and FEC premises licences**

- 14.13 We may check with applicants that the operator has made suitable arrangements to source machines from licensed suppliers. Details of [all licence holders](#) are available on the Gambling Commission website and we may advise them if we have concerns about possible unlicensed suppliers.

### **Supervision requirements**

- 14.14 You should satisfy yourself that any risk to the licensing objectives, particularly in relation to the protection of children and other vulnerable people is being suitably managed. It is not sufficient if there are no dedicated staff supervising the FEC area, whether using a premises licence or permit. Placing responsibility on security or cleaning staff associated with the wider development (eg shopping centre) is unlikely to be adequate.

### **Club Gaming Permits and Club Machine Permits**

- 14.15 The Council may grant members’ clubs and miners’ welfare institutes (but not commercial clubs) a Club Gaming Permit that authorises the establishment to provide gaming machines (no more than 3 machines of categories B, C or D), equal chance gaming and games of chance as prescribed in regulations.
- 14.16 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. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.
- 14.17 The Council may grant Club Machine Permits to members’ clubs who do not wish to have the full range of facilities permitted by a Club Gaming Permit and to commercial clubs not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act). Club Machine Permits authorise the holder to have up to three gaming machines of categories B4, C and D.

- 14.18 Regulations will set out the requirements in relation to applications for Club Gaming Permits and Club Machine Permits.

### **Alcohol Licensed Premises Gaming Machine Permits**

- 14.19 The Act provides an automatic entitlement for premises licensed to sell alcohol for consumption on the premises to have up to two category C or D gaming machines. The holder of the licence that authorises the sale of alcohol for consumption on the premises must give notice to the Council of their intention to make gaming machines available and must pay a prescribed fee. They must also comply with any relevant codes of practice about the location and operation of a gaming machine.
- 14.20 The Council has no discretion to consider any notification of this automatic entitlement or turn it down, however the Council may, by making an order under section 284 of the Act removing the automatic entitlement if:
- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - Gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - The premises are mainly used for gaming; or
  - An offence under the Gambling Act has been committed on the premises.
- 14.21 If the holder of premises licences that authorises the sale of alcohol for consumption on the premises wants to have more than two gaming machines on the premises, they must apply to the Council for an Alcohol Licensed Premises Gaming Machine Permit. An application may not however be made if a premises licence issued under the Gambling Act has effect.
- 14.22 The Council will specify the form and manner in which applications for an Alcohol Licensed Premises Gaming Machine Permit are made
- 14.23 In determining applications for an Alcohol Licensed Premises Gaming Machine Permit the Council will have regard to the licensing objectives, any guidance issued by the Commission under section 25 of the Act and any other matter which is considered relevant to the application. The Council may grant or refuse an application, and in granting an application may vary the number and category of gaming machines authorised by the permit.

### **Prize Gaming Permits**

- 14.24 A Prize Gaming Permit will be required on specified premises if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the game. That is when the operator determines prizes before play commences. The Council will be responsible for the issue of such permits. An application for a Prize Gaming Permit cannot be made if a premises licence or club gaming permit issued under the Act is in effect for the same premises.

14.25 The Council will specify the form and manner in which applications for a Prize Gaming Permit should be made, and in doing so will give weight to child protection issues and have regard to the Commission's Guidance.

## **Complaints and disputes**

### **All permit holders**

1. Permit holders should put into effect a written procedure for handling customer complaints and disputes regarding the use of gaming machines on their premises
2. A 'complaint' means a complaint about any aspect of the permit holder's conduct of their permissible activities, and a 'dispute' is any complaint which:
  - a) Is not resolved at the first stage of the complaints procedure, and
  - b) Relates to the outcome of the complainant's gambling transaction.
3. Permit holders should ensure that:
  - Customers are told the name and status of the person to contact about their complaint
  - Customers are given a copy of the complaints procedure on request or on making a complaint
  - All complaints are handled in accordance with the procedure

## PART D

### 15. Inspection, Enforcement & Criminal Proceedings

- 15.1 This section sets out the principles the Council will apply in exercising its functions under Part 15 of the Act; and its powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified therein.
- 15.2 The Council's primary consideration is the promotion of the licensing objectives. Therefore, the investigation of an allegation that suggests one or more of the licensing objectives are being undermined will be a priority for the Council. Furthermore, where evidence supports that one or more of the licensing objectives has been, or is being undermined, the Council will seek to take any necessary steps to stop this from happening, which may include the review of a licence.
- 15.3 The Council's objective when carrying an inspection is to ascertain:
- Compliance with provision of the Act; or
  - Whether an offence is being committed under the Act.
- 15.4 The Council's overarching principles in respect of all compliance and enforcement matters is to act in a manner that is:
- Proportionate:** regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent:** rules and standards must be joined up and implemented fairly;
- Transparent:** regulators should be open, and keep regulations simple and user friendly; and
- Targeted:** regulation should be focused on the problem, and minimise side effects.
- 15.5 The Council has, as recommended by the Commission, adopted a risk-based inspection programme. The programme includes targeting high-risk premises that require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more effectively concentrated on problem premises. This programme has been developed with regard to:
- The licensing objectives;
  - Relevant codes of practice;
  - Guidance issued by the Commission, in particular at Part 36; and
  - The principles set out in this Policy.
- 15.6 Compliance inspections will ordinarily be unannounced. The issues the Council are likely to cover during a routine inspection may include:
- Details of training policies and training undertaken by staff
  - Records of refusals to serve / admit on age grounds
  - Records of any relevant incidents in or outside the premises, e.g. anti-social behaviour
  - Approach to managing self-exclusion and numbers of people currently self-excluded



- Involvement / impact of any work in local schemes or partnership working with other local businesses
  - Reviewing paperwork relating to the purchase of games from licensed manufacturers
  - Interviews with staff members
  - Confirming that appropriate signage is in place.
- 15.7 The Council is familiar with the methodology in relation to the sale of age restricted products and is aware of the importance of following current guidance in this area, in order to ensure that tests are carried out in a manner that is risk-based and fair, with due regard to the welfare of young people involved in the test purchasing. The Council will endeavour to notify the Commission ahead of carrying out a test purchase and will share any test purchasing results with the Commission,
- 15.8 The Council is keen to work in partnership with the gambling trade and to this effect promoted the formation of, and continues to support, 'Bexley Betwatch', an organisation that is made up of the operators of local betting shops. The Council will share information with Bexley Betwatch, including sharing with its members any concerns it may have of a general nature.
- 15.9 When investigating a complaint about specific premises the Council will, where appropriate, make the licence holder aware of the nature of complaint and look to work in partnership with the licence holder to achieve a resolution through voluntary measures. Where partnership working is not successful in resolving the issues, the Council may then consider introducing conditions on the premises licence, or using other tools as appropriate.
- 15.10 The Council acknowledges that the Commission views the prevention of illegal gambling as an enforcement priority and that it will generally take the lead in prosecuting the offence of providing facilities for gambling where it is committed in the context of illegal gambling which appears organised and has a potentially national or regional impact, or where there are deliberate, reckless or significant breaches by a licensed operator. The expectation being that the Council will take prosecutions against those providing or facilitating illegal gambling - in effect gambling without a licence or permit - where the criminality is contained in one premises.
- 15.11 The Council will have regard to its primary objective of promoting the licensing objectives, together with the principles set out in paragraph 15.4 when deciding whether to take any prosecution, regardless of the nature of the offence.
- 15.12 The Council will notify the Commission of any concerns it may have about the manufacture, supply or repair of gaming machines.
- 15.13 This Council will keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
- 15.14 The Council will carry out its inspection and enforcement duties under the Act in accordance with its enforcement policy; which has been established having had regard to the Council's legal duties under the Regulatory Reforms Act 2006 and the requirements of the 'Regulators Code'. Further information on the Council's enforcement policy is available via the Council's website

[www.bexley.gov.uk](http://www.bexley.gov.uk) or by contacting the Licensing Partnership (see section 16 for contact details).

## 16. Contact Details

- 16.1 The contact details provided in this section may vary during the life of the Gambling Policy. Any amendment or update to these details is not considered to be a review of the Gambling Policy. An updated version of the contact details will be maintained on the Council's website [www.bexley.gov.uk](http://www.bexley.gov.uk).

### Council's Licensing Partnership

- 16.2 The contact details for the Council's Licensing Partnership are:

Licensing Team  
Sevenoaks District Council  
Council Offices  
Argyle Road  
Sevenoaks  
Kent  
TN13 1HG  
Tel: 01732 227004

E-mail: [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk)  
Core Office Hours: 10am to 4pm Monday – Friday

### Responsible Authorities

- 16.3 The contact details for the Responsible Authorities are:

The Licensing Authority (address as above )

- **The Gambling Commission**  
Victoria Square House, Victoria Square, Birmingham B2 4BP
- **The chief officer of police**  
Bexley Borough Commander, Bexleyheath Police Station, 2 Watling Street, Bexleyheath, Kent DA6 7AT
- **The fire and rescue authority**  
Bexley Borough Commander, Fire Safety Regulations, South East Area 3, 169 Union Street, London, SE1 0LL
- **The local planning authority**  
Head of Development Control, London Borough of Bexley, Bexley Civic Offices, 2 Watling Street, Bexleyheath, Kent DA6 7AT
- **The authority that has functions in relation to pollution of the environment or harm to human health**  
Housing Services Manager (Housing Services), London Borough of Bexley, Bexley Civic Offices, 2 Watling Street, Bexleyheath Kent DA6 7AT
- **The body designated in writing by the Council as competent to advise about the protection of children from harm**  
Trading Standards Service, London Borough of Bexley, Bexley Civic Offices, 2 Watling Street, Bexleyheath Kent DA6 7AT

- **HM Revenue & Customs**  
Betting and Gaming  
Excise Processing Teams  
Gambling Duties  
BX9 1GL

Tel: 0300 322 7072 Option 7

Email: [NRUBetting&Gaming@hmrc.gsi.gov.uk](mailto:NRUBetting&Gaming@hmrc.gsi.gov.uk)

Website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

# ANNEX 1

## London Borough of Bexley



