



**New Forest**  
DISTRICT COUNCIL

# GAMBLING ACT 2005

## STATEMENT OF PRINCIPLES

This Statement of Principles will remain in force from 31 January 2016  
until 31 January 2019

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**NEW FOREST DISTRICT COUNCIL  
GAMBLING ACT 2005  
SECTION 349**

**Statement of Principles**

**The contents of this document are provided as information on the policy and principles of New Forest District Council in carrying out its functions in relation to the regulation of gambling. The document is not a full and authoritative statement of the law or statutory guidance and does not constitute professional or legal advice.**

This Statement of Principles as determined by New Forest District Council in respect of its licensing functions in relation to the Gambling Act 2005 for the three year period commencing 31 January 2016 is set out in this document. During the three year period the document will be kept under regular review and following a full consultation process the Council will make such revisions to it, at such times, as it considers appropriate.

Further statements of principles will be published every three years thereafter.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5<sup>th</sup> Edition, published September 2015.

**Advertising**

Before publishing a statement or revision, New Forest District Council will publish a notice of their intention to do so no less than two weeks before the statement or revision is to be published. The notice will:

- a) Specify the date on which the statement or revision is to be published;
- b) Specify the date on which the statement or revision will come into effect;
- c) Specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected; and
- d) Be published on the authority's website and in/on one or more of the following places:
  - A local newspaper circulating in the area covered by the statement;
  - A local newsletter, circular, or similar document circulating in the area covered by the statement;
  - A public notice board on or near the principle office of the authority;
  - A public notice board on the premises of public libraries in the area covered by the statement.

## **Publication**

This statement or any subsequent revision of the statement will be published on the New Forest District Council website ([www.newforest.gov.uk](http://www.newforest.gov.uk)). The statement or any subsequent revision of the statement is also available for inspection at:

New Forest District Council  
Appletree Court  
Beaulieu Road  
Lyndhurst  
SO43 7PA

## **Declaration**

In publishing this document, New Forest District Council (NFDC) has had regard to the licensing objectives of the Gambling Act 2005 (the Act), the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

Operating licences and personal licences are issued and regulated by the Gambling Commission whilst local authorities are responsible for the issue and regulation of premises licences, and other permits.

The Act places responsibilities on licensing authorities in ways similar to the Licensing Act 2003. There are some interdependencies between the Licensing Act 2003 (LA2003) and the Gambling Act 2005 (GA2005) in terms of the framework for decision making and the procedures that must be followed. NFDC will however take care to ensure that when dealing with applications under the GA2005 they will follow the procedures that the GA2005 requires and only take into account issues that are relevant to that Act. Care will be taken not to confuse GA2005 considerations with those relevant to LA2003 or planning matters.

**When using this document reference should also be made to the Gambling Act 2005, any associated regulations and any guidance and advice issued by the Gambling Commission or the Department of Culture, Media and Sport, and information contained on the NFDC website.**

## **PART A**

### **The Licensing Objectives**

In exercising most of their functions under the GA2005, licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. These are:

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

In the case of gambling premises licences disorder is generally intended to mean activity that is more serious and disruptive than mere nuisance.

It should be 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”.***

The licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it is:

- 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.

## **Introduction to the New Forest District Council area**

The New Forest area is in the south west corner of Hampshire, bounded by the Solent water. It is situated between the conurbations of Southampton to the east and Bournemouth to the west. One of the most striking features of the Forest is the open expanse of semi-natural vegetation at its heart which has National Park status. Much of the open forest is owned and cared for by the Forestry Commission working in conjunction with a wide range of other statutory bodies and interest groups.

Tourism is a major part of the local economy and every year approximately 22 million visitors come to the area. Many people visit on a regular basis to enjoy the forest area.

The New Forest faces many challenges if its special character is not to be eroded by modern day pressures.

It has a number of premises conducting gambling activities as follows:

- 14 betting offices;
- 1 adult entertainment centre;
- Approximately 500 licensed premises;
- Approximately 60 private, social & sporting members clubs;

At the time of publication there are no bingo halls, tracks or casinos within the NFDC area.

The Council recognises that legal gambling in a fair and open way, with suitable protection for vulnerable persons, is an important part of the district and contributes to the local economy. Attention is drawn to the section 'Fundamental Principles' regarding demand, objections and locations for any application for new gambling premises.

Should you have any comments regarding this policy statement please contact:

Licensing Services  
Public Health & Community Safety  
New Forest District Council  
Appletree Court  
Lyndhurst  
Hampshire  
SO43 7PA

Tel: 023 8028 5505

Email: [licensing@nfdc.gov.uk](mailto:licensing@nfdc.gov.uk)

## Consultation on the Statement of Principles

NFDC consulted the following interested parties on this statement:

- The Chief Officer of Police for Hampshire;
- Responsible Authorities;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling activities in the New Forest area;
- One of 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 Act.

A full list of consultees can be obtained from Licensing Services, NFDC.

NFDC will also consult the above for any subsequent revision of the statement.

In determining its policy, NFDC will always:

- Have regard to the Gambling Commission's Guidance to Licensing Authorities;
- Give appropriate weight to the views of those consulted.

In determining what weight to give to particular representations on its statement the factors taken into account will always include:

- Who is making the representation in terms of their expertise or interest;
- What their motivation may be for their views;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters that the licensing authority should be including in its policy statement.

It will be for NFDC to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account and to what extent (having regard to the above factors). NFDC will always give reasons for the decisions it has made following consultation, details of which can be viewed on the NFDC web-site or by contacting Licensing Services at Appletree Court, Lyndhurst.

The consultation process took place between 3<sup>rd</sup> July 2015 and 18<sup>th</sup> September 2015.

The full list of comments made and considered by the Council is available by request to Licensing Services at [licensing@nfdc.gov.uk](mailto:licensing@nfdc.gov.uk).

## Fundamental Considerations

In carrying out its function NFDC will regulate gambling in the public interest and will have regard to the guidance issued under Section 25 of the Act. With the exception of premises licensing and temporary use notices, NFDC may use its discretion where there are strong and defensible reasons for departing from the guidance, and NFDC consider it right to do so. In any such case NFDC will clearly express and explain its reasons for doing so.

This policy statement does not override the right of any person to make an application under the Act and to have that application considered on its merit. Additionally, this policy statement does not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

The policy will not comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard to demand. Moral objections to gambling will not be a reason to reject an application for premises licences.

Each application will be considered on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. **If an applicant for a premises licence can show how concerns about the licensing objectives can be overcome, that will be taken into account when reaching a decision on whether or not to grant a licence.**

**In rejecting an application, NFDC will rely on reasons that demonstrate that the licensing objectives are not being met.**

The licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it is:

- 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.



## Responsible Authorities

When dealing with applications for and review of premises licences, NFDC is obliged to consider representations from two categories of persons, referred to as '**responsible authorities**' and '**interested parties**'. (It should be noted that these are defined differently to those defined in the LA2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

NFDC will only consider representations that are relevant, which are likely to be those that relate to the licensing objectives, or that raise issues issued under this policy statement, or the Commission's guidance or codes of practice (i.e. those matters mentioned in Section 153 of the Act).

NFDC will examine closely all representations to ensure that they are not frivolous or vexatious, which will include:

- Who is making the representation, and whether there is a history of making representations that are not relevant;
- Whether it raises a 'relevant' issue; or
- Whether it raises issues specifically to do with the premises that are the subject of the application.

**Responsible Authorities** are public bodies that must be notified of applications by the applicant. The full list and contact details are contained on the NFDC website or can be provided by Licensing Services upon request.

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

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this Authority designated the Local Safeguarding Children Board for this purpose.

The contact details of all Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.nfdc.gov.uk](http://www.nfdc.gov.uk)

## Interested Parties

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

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

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities, or
- c) Represents persons who satisfy paragraph (a) or (b).”

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the GA2005 to determine whether a person is an interested party. The principles are:

Each case will be determined upon its individual merits. This 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 to Licensing Authorities. 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.

Interested parties can be persons who are democratically elected such as 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 MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this Authority will generally require written evidence that a person/body represents someone who either lives sufficiently close or has a business interest to the premises to be likely affected by the authorised activities. A letter from one of these parties requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken to ensure that the councillor is not part of the Licensing Committee dealing with the licence application. If there are any doubts please contact the licensing department; [licensing@ngfc.gov.uk](mailto:licensing@ngfc.gov.uk)

## **Exchange of Information**

NFDC is required to include in their policy statement the principles to be applied by the Authority in exercising the functions under Section 29 and Section 30 of the Act, with respect to the exchange of information between it and the Gambling Commission and the functions under Section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the GA2005 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 GA2005.

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

## Compliance and Enforcement

Licensing authorities are required by regulation under the GA2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This Licensing Authority's principles are that it will be guided by the Gambling Commission's guidance to licensing authorities and will endeavour to be:

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

As per the Gambling Commission's guidance to licensing authorities, this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on:

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

The main enforcement and compliance role for this Licensing Authority in terms of the GA2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for personal and operating licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

This Licensing Authority also keeps itself informed of developments as regard the work of the Better Regulation Executives in its consideration of the regulatory functions of Local Authorities.

## New Forest District Council Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**;
- Issue **Provisional Statements**;
- Regulate members clubs who wish to undertake certain gaming activities via the issue of **Club Gaming Permits** and/or **Club Machine Permits**;
- Issue **Club Machine Permits** to commercial clubs;
- Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**;
- Receive **notifications** from alcohol licensed premises (LA2003) for the use of one or two **gaming machines**;
- Issue **Gaming Machine Permits** for alcohol licensed premises (LA2003) where there are more than two gaming machines;
- Register **Small Society Lotteries** below prescribed thresholds;
- Issue **Prize Gaming Permits**;
- Receive and endorse **Temporary Use Notices**;
- Receive **Occasional Use Notices**;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that licensing authorities are not involved in licensing remote gambling which is regulated by the Gambling Commission, via operating licences.

## **PART B**

### **PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

#### **General Principles**

Premises licences are subject to the requirements set out in the GA2005 and the accompanying regulations, as well as specific mandatory and default conditions issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others where it is believed to be appropriate.

#### **Decision Making**

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

- 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 Authorities policy statement.

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

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

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

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

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

**Planning** – The Gambling Commission guidance states: ‘In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal’.

This Licensing Authority will not take into account irrelevant matters as per the above. In addition this authority notes the following guidance: ‘When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 GA2005 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’.

**Duplication** – This Licensing Authority seeks to avoid any duplication with other statutory and/or regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully any concerns about conditions which are not able to be met by applicants/licensees due to planning restrictions, should such a situation arise.

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

**Licensing Objectives** – Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission’s Guidance and makes further comment below.

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – this licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider relevant factors so as to make that distinction.

- **Ensuring that gambling is conducted in a fair and open way** – this licensing authority notes that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with this objective as it will be addressed via operating and personal licences. There is however more of a role for authorities with tracks, which is explained in more detail later.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – this licensing authority notes the guidance that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at or is particularly attractive to children. This licensing authority will therefore consider whether specific measures are required at particular premises, as suggested in the guidance and the Gambling Commission Codes of Practice.

It is noted that the Gambling Commission does not seek to offer a definition of the term ‘vulnerable persons’ but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

**Conditions** – any conditions attached to licences will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under certain the licence types as detailed later. Likewise this licensing authority would expect licence applicant’s to offer their own suggestions for measures that would uphold the licensing objectives.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling area frequented by children; and the supervision of gaming machines.

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

- All such machines are located in an area of the premises which is separated;
- 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 staff or the licence holder;
- At the entrances to and inside any such areas there are prominently displayed notices indicating that the area is prohibited to persons less than 18 years of age.

These considerations will apply to premises including building where multiple premises licence is applicable.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track. As per the guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences, these are:

- Any condition on the premises licence which makes it impossible to comply with as 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 for casino and bingo premises; and
- Conditions in relation to stakes, fees, winning or prizes.

**Door Supervisors** – the Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, then it may require that the entrances to the premises are controlled by a door supervisor and is entitled to impose a premises licence condition to this effect.

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

## **Adult Gaming Centres**

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises:-

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

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

## Betting Premises

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority will, as per the guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of machines by children and young persons or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator wants to offer.

## **Bingo Premises**

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority notes the guidance which states:

- Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence.
- The unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted but that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young are allowed.

## Casinos

The Gambling Commission's relevant access provisions for this premises type states:

- The principle access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children or young person's;
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

Also this licensing authority has not passed a '**no casino**' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

### **Family Entertainment Centres (licensed):**

The Gambling Commission's relevant access provisions for this premises type states:

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

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

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

- CCTV
- Supervision of entrances & machine areas
- Physical separation of areas
- Location of entry
- Notices & signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets and 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.

This licensing authority will, as per the guidance, refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## Tracks

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the guidance, this licensing authority will especially consider the impact upon the protection of children and vulnerable persons from being harmed or exploited licensing objectives and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young person's will be permitted to enter track areas where facilities for betting are provided on days when dog racing or horse racing takes place, but that they are still prevented from entering areas where gaming machines are provided other than category D.

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

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

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

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, other than category D, they should be located in areas from which children are excluded.

This licensing authority will, as per the guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator proposes to offer.

## **Applications and Plans**

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

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such circumstances where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with detailing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the 'five times rule' (betting rings) must be indicated on the plan.



## Provisional Statements

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

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

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

- First, whether the premises ought to be permitted to be used for gambling;
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

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

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

Section 204 GA2005 provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that they:

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

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

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

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about further representations from relevant authorities or interested parties can be taken into account unless:

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

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

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

## Reviews

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

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of principles policy.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter, revoke or suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

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

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

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

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State, or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; or
- Revoke the premises licence.

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

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

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

- The licence holder
- The applicant for review
- The Gambling Commission
- Any Responsible Authority who made representations
- Any Interested Party who made representations
- The Chief Officer of Police
- Her Majesty's Commissioners for Revenue and Customs

## PART C

### Permits & Notices

#### **(Unlicensed) Family Entertainment Centre – gaming machine permits**

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 (uFEC). 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 GA2005).

In accordance with the guidance; an application for a permit may only be granted if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Licensing authorities may consider applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs;
- That the applicant has no relevant convictions, those set out in Schedule 7 of the Act; and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

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

Also, this licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures, such as staff training, regarding suspected truant school children on the premises or dealing with unsupervised young children on the premises.

This licensing authority will also expect, as per the guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **Licensed Premises (alcohol) – gaming machine permits**

### **Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of category C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonable 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;
- The premises are mainly used for gaming; or
- An offence under the GA2005 has been committed on the premises.

### **Permit: 3 or more gaming machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. The licensing authority must consider that application based upon the licensing objectives, the guidance and such matters as they think relevant. This may include consultation with Responsible Authorities and submission of plans of the premises showing the location of machines.

This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant 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 that will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely be applied for and dealt with as an Adult Gaming or Family Entertainment Centre premises licence, dependant on the suitability of the premises or category of gaming machine requested.

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

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

## Prize Gaming Permits

This licensing authority expects the applicant for a prize gaming permit to set out the types of gaming that they are intending to offer and that the applicant should be able to demonstrate the following matters:

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

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

It should be noted that there are conditions in the GA2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions.

The conditions in the Act are:

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

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

Members clubs may apply for a Club Gaming Permit or a Club Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

The guidance states that licensing authorities may only refuse an application for a club permit on the grounds that:

- The applicant does not fulfil the requirements for a members or commercial club and therefore not entitled to receive this type of permit;
- The applicant's premises are used wholly or mainly by children or young person's;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the Police.

There is a 'fast-track' procedure available under the Act 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 Police, and the grounds upon which an authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed by regulation under section 266 of the Act;
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- That a club permit issued to the applicant in the last 10 years has been cancelled.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.



## **NOTICES**

### **Temporary Use Notices (TUN):**

TUN 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 TUN, according to the guidance, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a TUN to a person or company holding a relevant operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUN, (i.e. SI no 3157), which only permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner such as a poker tournament.

There are a number of statutory limits as regards TUN. The meaning of 'premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether 'any place' falls within the definition, the licensing authority needs to look at, amongst other things, the ownership or occupation and control of the premises.

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

### **Occasional Use Notices (OUN):**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days per calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to give notice.

## MISCELLANEOUS

### **Travelling Fairs**

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

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

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

## **Rights of Appeal and Judicial Review**

NFDC is aware that its decisions may be subject to an appeal in accordance with the provisions of the Act and Judicial Review. It also recognises that failure to give reasons for a decision may compel a person to appeal. NFDC will:

- Give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so; and
- Wherever practicable, as best practice, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local Magistrate Court within a period of 21 days beginning with the day on which the appellant was notified by NFDC of the decision to be appealed against.

Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from a legal advisor who specialises in gambling law.

**Gambling Act 2005 - Premises Licence Fees**

| <b>Premises Type</b>                | <b>Transitional Fast-Track Application</b> | <b>Transitional Non-Fast Track Application</b> | <b>New Application</b> | <b>Annual Fee</b> |
|-------------------------------------|--|--|------------------------|-------------------|
|                                     | <b>£</b>                                   | <b>£</b>                                       | <b>£</b>               | <b>£</b>          |
| Existing Casinos                    | n/a  | n/a  | n/a                    | n/a               |
| New Small Casino                    | n/a  | n/a  | tba                    | tba               |
| New Large Casino                    | n/a  | n/a  | tba                    | tba               |
| Regional Casino                     | n/a  | n/a  | tba                    | tba               |
| Bingo Club                          | 150  | 875  | 1750                   | 500               |
| Betting Premises (excluding Tracks) | 150  | 750  | 1500                   | 300               |
| Tracks                              | 150  | 625  | 1250                   | 500               |
| Family Entertainment Centres        | 120  | 400  | 800                    | 300               |
| Adult Gaming Centre                 | 120  | 400  | 800                    | 400               |

|                                     | <b>Application to Vary</b> | <b>Application to Transfer</b> | <b>Application for Re-Instatement</b> | <b>Application for Provisional Statement</b> | <b>Licence Application (provisional Statement holders)</b> | <b>Copy Licence</b> | <b>Notification of Change</b> |
|-------------------------------------|----------------------------|--------------------------------|---------------------------------------|--|--|---------------------|-------------------------------|
|                                     | <b>£</b>                   | <b>£</b>                       | <b>£</b>                              | <b>£</b>                                     | <b>£</b>   | <b>£</b>            | <b>£</b>                      |
| Existing Casinos                    | n/a                        | n/a                            | n/a                                   | n/a  | n/a  | n/a                 | n/a                           |
| New Small Casino                    | tba                        | tba                            | tba                                   | tba  | tba  | 25                  | 50                            |
| New large Casino                    | tba                        | tba                            | tba                                   | tba  | tba  | 25                  | 50                            |
| Regional Casino                     | tba                        | tba                            | tba                                   | tba  | tba  | 25                  | 50                            |
| Bingo Club                          | 875                        | 600                            | 1200                                  | 3500   | 600  | 25                  | 50                            |
| Betting Premises (excluding Tracks) | 750                        | 600                            | 600                                   | 1500   | 600  | 25                  | 50                            |
| Tracks                              | 625                        | 475                            | 475                                   | 1250   | 475  | 25                  | 50                            |
| Family Entertainment Centres        | 400                        | 380                            | 380                                   | 800  | 380  | 25                  | 50                            |
| Adult Gaming Centres                | 400                        | 480                            | 480                                   | 800  | 480  | 25                  | 50                            |

**Permits – These fees are set by the Secretary of State and the licensing authority has no discretion to change them.**

| Fee Type<br>Permit Type   | Application fee | Annual fee | Renewal fee     |
|---|-----------------|------------|-----------------|
|   | £               | £          | £               |
| FEC Gaming Machine  | 300             | N/A        | 300<br>10 years |
| Prize Gaming  | 300             | N/A        | 300<br>10 years |
| Alcohol Licences Premises – Notification of 2 or less machines<br>(If Premises Licence Holder changes a new notice is required) | 50              | N/A        | N/A             |
| Alcohol Licences Premises – More than 2 machines  | 150             | 50         | N/A             |
| Club Gaming Permit  | 200             | 50         | 200<br>10 years |
| Club Gaming Machine Permit  | 200             | 50         | 200<br>10 years |
| Club Fast-track for Gaming Permit or Gaming Machine Permit  | 100             | 50         | 100<br>10 years |
| Small Society Lottery Registration  | 40              | 20         | N/A             |
| Temporary Use Notice  | 500             | N/A        | N/A             |

**Permit - Miscellaneous Fees**

|  | Change of Name<br>£ | Copy of Permit<br>£ | Variation<br>£ | Transfer<br>£ |
|--|---------------------|---------------------|----------------|---------------|
| FEC Permits  | 25                  | 15                  | N/A            | N/A           |
| Prize Gaming Permits   | 25                  | 15                  | N/A            | N/A           |
| Alcohol Licences Premises – Notification of 2 or less machines | N/A                 | N/A                 | N/A            | N/A           |
| Alcohol Licences Premises – More than 2 machines               | 25                  | 15                  | 100            | 25            |
| Club Gaming Permit   | N/A                 | 15                  | 100            | N/A           |
| Club Gaming Machine Permit                                     | N/A                 | 15                  | 100            | N/A           |