

**EAST STAFFORDSHIRE BOROUGH
COUNCIL**

**GAMBLING ACT 2005
POLICY STATEMENT
2010 - 2012**

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Should any regulations/codes of practice or guidance impact upon the content of this document it will need to be amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in May 2009

PART A

1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

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".

This 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 thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

2. Introduction

East Staffordshire Borough Council is situated in the County of Staffordshire, which contains nine Councils in total. The borough covers an area of 150 square miles and the estimated population was recorded as 103,770 in 2001. East Staffordshire is largely rural with ancient woodlands in part, and the Weaver Hills adjoining the Derbyshire Dales, in the North. The two main towns where commercial and industrial activities are concentrated are Burton-upon-Trent and Uttoxeter.

Burton is the principal town with the greatest concentration of population and provides approximately 70% of the borough's employment. As far as the economy is concerned, East Staffordshire is still heavily reliant on manufacturing activities albeit that the service industries are gaining momentum as a percentage of total employment within the borough.

Licensing authorities are required by the Gambling Act 2005 to publish a policy of the principles which they proposed to apply when exercising their functions. This policy must be published at least every three years. The policy must also be reviewed from "time to time" and any amended parts re-consulted upon. The policy must be then re-published.

East Staffordshire Borough Council consulted widely upon this policy before finalising and publishing. A list of those persons consulted is provided below.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

List of persons this authority consulted:

- Staffordshire Police
- Staffordshire County Council Children's Services
- Existing operators of premises requiring licences under the Gambling Act 2005
- National Associations representing the Gambling industry
- Companies in the area who provide gaming machines
- Parish Councils across East Staffordshire
- Organisations dealing with gambling addiction and gambling problems
- The general public via the Council's website

Our consultation will take place between 1 September 2009 and 31st October 2009 and we referred to the Code of Practice on consultations by the public sector issued by the Cabinet Office.

The full list of comments made and the consideration by the Council of those comments will be available on the Council's website under the "Consultations" section.

Should you have any comments as regards this policy please send them via e-mail or letter to the following contact:

Name: The Licensing Team

Address: East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire, DE14 2EB.

E-mail: licensing@eaststaffsbc.gov.uk

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

3. Declaration

In producing the final policy, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy.

4. Responsible Authorities

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

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: <http://www.eaststaffsbc.gov.uk>

5. 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 Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. The authority considers that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. Also the authority considers that interested parties include trade associations and trade unions, and residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

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

and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact -The Licensing Team, Environmental Health Division, East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire, DE14 2EB. Tel 01283 508505 Or via e-mail Licensing@eaststaffsbc.gov.uk

6. Exchange of Information

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7. Enforcement

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local 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.

This licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority has adopted a risk-based inspection programme.

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

Generally, if the licensing authority discovers a breach of a premises licence condition or permit in the course of other regulatory activity, it is expected that it will deal with the case. However, when formal enforcement action in relation to suspected breaches of a premises licence is to be taken by a licensing authority, it should inform the Commission

that it is taking such action. This enables the Commission to comment on the proposed course of action if it considers it necessary to do so. It will be for the Commission to respond promptly to the notification of the intention to take action, and it is not expected that licensing authorities will wait for agreement from the Commission before taking action.

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement policy will be available upon request to - The Enforcement Team, East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire, DE14 2EB. Tel 01283 508310 Or via e-mail enforcement@eaststaffsbc.gov.uk

Our risk methodology will also be available upon request.

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

8. Licensing Authority 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* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

PART B PREMISES LICENCES

1. General Principles

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

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 authority's statement of licensing policy.

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

Definition of "premises" - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to 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. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, areas of a building that are artificially or temporarily separate cannot be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that:

- licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that 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.
- licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should 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.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. References to “the premises” are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. Requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

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 can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

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

Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives.

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 will be taking a leading role in preventing gambling from being a source of crime. This licensing authority will however pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of crime and/or disorder this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling 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 addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in

more detail in the 'tracks' section below – page 14).

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

This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term “vulnerable persons” it is noted that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambles 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. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

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

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

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

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;

- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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. 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 which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

Door Supervisors - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. In making such a decision the licensing authority shall also have due regard to relevant premises history and the level of supervision already provided as part of usual operational practice. It is noted though that the door supervisors at casinos or bingo premises are exempt from licensing by the Security Industry Authority (SIA). This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises which are that they must be suitable trained and supervised (the onus is on applicants to demonstrate that door supervisors meet this requirement). This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. In such circumstances SIA licensed supervisors are preferred, but in the absence of such a licence the onus will be on the applicant to demonstrate that the supervisor is suitably trained and supervised.

2. Adult Gaming Centres

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

This 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.

3. (Licensed) Family Entertainment Centres:

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

This licensing authority 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.

This licensing authority will 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.

4. Casinos

There are currently no casinos within East Staffordshire and the local authority has not submitted a request to be considered for one of the new casino licences to be issued.

Casinos and competitive bidding - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005.

5. Bingo premises

Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning.

Two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

This licensing authority considers that it is important that if children are allowed to enter into bingo premises that they do not participate in gambling other than on category D machines and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Licensing authorities should ensure that:

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

6. Betting premises

Betting machines - This licensing authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

The licensing authority will consider limiting the number of machines where it can be substantiated that a licensing objective is or is likely to be breached.

7. Tracks

Section 353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

The Act does not give a list of premises that are officially recognised as 'tracks' but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include:

- a horse racecourse (referred to in this Guidance as 'racecourses')
- a greyhound track
- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

This list is by no means exhaustive, as, in theory, betting could take place at any venue where a sporting or competitive event is occurring. While many of these venues are not commonly understood to be 'tracks', they fall within the definition of 'track' defined by the Act.

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 and shall have regard to additional information/guidance on the practicalities of such an approach. This licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) 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 persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place or is scheduled to take place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This 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-baring 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.

Gaming machines - A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence. However, by virtue of section 172(9) of the Act, track owners holding both a track premises licence *and* a pool betting operating licence issued by the Commission (in effect, greyhound tracks only), may site up to four gaming machines within categories B2 to D on the track.

Some tracks will also qualify for an alcohol licence and as such they will be automatically entitled under section 282 of the Act to two gaming machines of category C or D. This permission is activated by notifying the licensing authority and paying them the required fee. If a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to a total of six gaming machines (two via the alcohol licence and four via the operating licence). In such scenarios the operating licence entitlement does not take precedence, and each licence has its own requirements that must be complied with.

Applications for permits to allow additional gaming machines are not permitted where the premises is already covered by a track premises licence.

This licensing authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting machines - This licensing authority will 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also consider restricting the number and location of such machines in respect of applications for track betting premises licences.

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

Applications and plans - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences. However in order to ensure that a proper understanding of what we are being asked to licence we will set out the information that we will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of dog tracks and horse racecourses details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as 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.

This licensing authority considers that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8. Travelling Fairs

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.

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

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.

9. Provisional Statements

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

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

This licensing authority notes that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that

“Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.

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:

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

This authority will not take into account irrelevant matters e.g. the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

10. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review. Such applications must be submitted to the licensing authority in the prescribed form and state the reasons why a review is being requested.

- 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.

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

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

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable
- HM Revenue and Customs.

PART C
Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

Family entertainment centres (FECs) are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. Unlicensed FECs are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit subject to other considerations, such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.

If the operator of a family entertainment centre wants to make category C machines available in addition to category D machines, the operator will need to apply for a gaming machine general operating licence (Family Entertainment Centre) from the Commission and a premises licence from the licensing authority (see part 23 of this Guidance).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. This licensing authority will require applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

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

Statement of Principles = 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 / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005 and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and 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 who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / 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 need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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 the machine.

3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

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

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.

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

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

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

4. Club Gaming and Club Machines Permits

A club gaming permit or club machine permit may not be issued in respect of a vessel or vehicle.

Under section 271 of the Act, this licensing authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines (as well as equal chance gaming and games of chance, as prescribed in regulations⁵⁴). The club gaming permit has certain conditions, including that, in respect of gaming machines, no child or young person 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 (available on the Commission's website).

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply to the licensing authority for a club machine permit under section 273 of the Act. This authorises the holder to have up to three gaming machines of categories B4, C or D (that is, three machines in total). Members' clubs and miners' welfare institutes (but not commercial clubs) are entitled to site category B3A gaming machines offering lottery games in their clubs. However, the limit of three machines in total remains.

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming 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 forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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.

5. Temporary Use Notices

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. Premises that might be suitable for a temporary use notice include hotels, conference centres and sporting venues.

A temporary use notice may only be granted to a person or company holding a relevant operating licence, in effect a non-remote casino operating licence.

There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. This is a new permission and licensing authorities should be ready 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."

6. Occasional Use Notices:

Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. It should be noted that the processes set out in the Act for applying for an occasional use notice are different to those for temporary use notices.

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

7. Small Society Lotteries

The Act sets out a definition of a lottery and provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries: these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries: there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

The National Lottery is not regulated by the Commission, but continues to be regulated by the National Lottery Commission under the National Lottery Act 1993

Definition of lottery

Licensing authorities need to have an understanding of how a lottery is defined. In essence a lottery is an arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under section 14 of the Act.

An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.
-

An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

Society lotteries are lotteries established for the benefit of a non-commercial society. A Society is non-commercial if it is established and conducted:

- For charitable purposes
- To enable participation in, or to support, sports, athletic or cultural activities; or
- For any other non-commercial purpose other than private gain.

A society must hold a **lottery operating licence issued by the gambling commission** if the total proceeds exceed £20,000 or £250,000 in cumulative lotteries in one calendar year. If the proceeds are below these levels, the society must register with East Staffordshire Borough Council as a **Small Society Lottery**.

8.Territorial applications

A fixed premise such as a building or a track in Great Britain will need the appropriate licences to operate.

Vessels

Vessels such as cruise ships, ferries, boats and hovercrafts are required to have a premises licence if commercial gambling is provided at them. However if a vessel is engaged on a journey into or from international waters then no premises licence is required.

Vehicles

No premises licences can be issued in respect of a vehicle. A car, lorry or coach is obviously a vehicle, and the Act also provides that 'vehicle' includes a train, aircraft, seaplane and any amphibious vehicle other than a hovercraft. There is no exemption for international travel. Whilst this is ultimately a matter for the courts it is the Commission's view that a vehicle remains a vehicle not only when stationary but also if located

permanently at a particular site, perhaps with its wheels removed but capable of being reinstated.

Aircraft

No offence occurs if gambling is conducted on an aircraft which is in international space. As an aircraft is a vehicle, no premises licences can be granted to aircraft for gambling in domestic airspace.

Airports

The Act applies to all parts of an airport including both domestic and international departure halls. Therefore any business that would normally require a premises licence will also require a licence to operate at an airport.

Definitions

- Chief Officer of Police – the Chief Constable of Staffordshire Police
- Premises Licence – a licence for a premises used for gambling
- Provisional Statement – a pre-cursor to a Premises Licence for premises which are not yet constructed, expect to be altered or expect to be obtain a right to occupy
- Club Gaming Permit – a licence available to Members' Clubs and Miners' Welfare Institutes which authorise the use of gaming machines
- Club Machine Permit – a permit which allows a holder to have up to three gaming machines in total (categories B4, C or D)
- Licensed Family Entertainment Centres – licensed premises with category C and D gaming machines
- Unlicensed Family Entertainment Centres – premises with only category D gaming machines
- Licensed Premises Gaming Machine Permits – permits which are issued to premises licensed for the sale of alcohol (under the Licensing Act 2003)
- Small Society Lottery – lotteries run by non-commercial societies
- Prize Gaming Permits – permit issued to allow facilities for gaming with prizes
- Temporary Use Notice – a notice allowing a premises which does not hold a Premises Licence to be used temporary for gambling purposes
- Occasional Use Notice – a notice that allows betting at a track where this occurs on eight days or less each year
- LACORS – Local Authority Co-ordinating Organisation on Regulatory Services
- Tracks – sites (including horse racecourses and dog tracks) where races or other sporting events take place
- Category A Gaming Machine – a gaming machine with an unlimited stake and an unlimited jackpot
- Category B1 Gaming Machine – a gaming machine with an £2 maximum stake and an £4000 maximum jackpot
- Category B2 Gaming Machine – a gaming machine with an £100 maximum stake and an £500 maximum jackpot
- Category B3 Gaming Machine – a gaming machine with an £1 maximum stake and an £500 maximum jackpot
- Category B4 Gaming Machine – a gaming machine with an £1 maximum stake and an £250 maximum jackpot
- Category C Gaming Machine – a gaming machine with an £1 maximum stake and an £70 maximum jackpot
- Category D Gaming Machine – a gaming machine with an 10p (or 30p where non-monetary prize) maximum stake and an £5 monetary jackpot (or £8 non-monetary prize) maximum jackpot

Appendix A: Summary of machine provisions by premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D				
Bingo premises				Maximum of 8 machines in category B3 or B4	No limit on category C or D machines		
Adult gaming centre				Maximum of 4 machines in category B3 or B4	No limit on category C or D machines		
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)						No limit on category D machines	
Clubs or miners' welfare institute (with permits)					Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol-licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit	
Travelling fair						No limit on category D machines	

Appendix B: Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (until June 2009)*	Maximum prize (until June 2009)*	Maximum stake (from June 2009)*	Maximum prize (from June 2009)*
A	Unlimited	Unlimited	Unlimited	Unlimited
B1	£2	£4,000	£2	£4,000
B2	£100 (in multiples of £10)	£500	£100 (in multiples of £10)	£500
B3A	£1	£500	£1	£500
B3	£1	£500	£1	£500
B4	£1	£250	£1	£250
C	50p	£35	£1	£70
D - non-money prize (other than a crane grab machine)	30p	£8	30p	£8
D – non-money prize (crane grab machine)	30p	£8	£1	£50
D (money prize)	10p	£5	10p	£5
D - combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)	10p	£8 (of which no more than £5 may be a money prize)
D - combined money and non-money prize (coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)	10p	£15 (of which no more than £8 may be a money prize)

Appendix C: Summary of gaming entitlements for clubs and pubs

	Members' club or MW institute with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Members' club, comm. club or MW institute without a club gaming permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 per week £250 per day £10 per person per game Other gaming No limit	Poker £1000 per week £250 per day £10 per person per game Other gaming No limit	Cribbage & dominoes No limit Poker £100 per premises per day Other gaming £5 per person per game
Limits on prizes	No limit	No limit	Poker £250 per game Other gaming No limit	Poker £250 per game Other gaming No limit	Poker £100 per game Other gaming No limit
Maximum participation fees – per person per day	Bridge and/or whist £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge and/or whist £18 Other gaming £3 (commercial club) £1 (members' club)	Bridge and/or whist £18 Other gaming £1	None permitted
Bankers or unequal chance gaming	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
Limits on bingo	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.