

## REPORT FROM THE LICENSING & APPEALS COMMITTEE TO COUNCIL

### REPORT OF THE LICENSING & APPEALS COMMITTEE

#### 1 CONSULTATION ON THE REVIEW OF THE STATEMENT OF LICENSING POLICY (GAMBLING ACT 2005)

- 1.1 This item of business was referred by the Licensing & Appeals Committee on 18 January 2022 with a recommendation to adopt the Statement of Licensing Policy (Gambling Act 2005). An extract of the key elements of the report of the Assistant Director, People & Communities to the Committee is appended.

#### 2 RECOMMENDATION

- 2.1 It is proposed that Council **RESOLVES**

That the Statement of Licensing Policy (Gambling Act 2005) 2022 – 2025 be approved for adoption and publication.

If you would like this report in large print, Braille or another language please contact 01702 318111.



## **CONSULTATION ON THE REVIEW OF THE STATEMENT OF LICENSING POLICY (GAMBLING ACT 2005)**

### **1 PURPOSE OF REPORT**

- 1.1 To consider the Statement of Licensing Policy (Gambling Act 2005) 2022 – 2025 following the statutory consultation.

### **2 INTRODUCTION**

- 2.1 Section 349 of the Gambling Act 2005 requires the Council to determine and to publish its licensing policy every 3 years. The Council's current policy is for the period ending 30 January 2022.
- 2.2 The Act requires the Council to keep the policy under review throughout each period and to revise it as necessary. Prior to making any changes, or in advance of a new 3-year period, the Council must carry out a consultative process with Responsible Authorities defined by the Act and others who the Authority considers would have an interest in the policy.
- 2.3 The Policy was revised and approved for consultation between 10 September 2021 – 5 November 2021. The draft policy was circulated for consultation to those identified in the report and the draft policy was displayed at the Council offices and on the Council's website.
- 2.4 A copy of the final Policy is detailed in Appendix A.

### **3 RESPONSE TO THE CONSULTATION**

- 3.1 The Licensing Team contacted 50 Interested Parties, including Gambling Commission, Gambling Anonymous and Local Authorities. At the conclusion of the consultation period the Licensing Team received one response from Gosschalks Solicitors, acting as consultants for the trade, highlighting policy areas where the Council could provide clarity in relation to definitions.
- 3.2 Appendix B details a copy of this response.
- 3.3 The suggested clarification amendments have now been incorporated into the proposed new policy. These relate to:
- Emphasising that the policy operators must undertake a local risk assessment as part of the application process and some examples of what **may** be relevant when assessing risks.
  - Providing a clearer paragraph relating to the use of Security Industry Association door staff at licensed premises (Section 178 Gambling Act 2005).

- Providing a clearer explanation that the mandatory and default conditions that attach to all premises licences are intended to be sufficient to ensure operation that is reasonably consistent with the licensing objectives.
  - Expanding on the differentiate between betting machines and gaming machines.
- 3.4 There is no reason, from the consultation responses, not to recommend the adoption of the Policy to take effect from 31 January 2022. The policy will next be due for review by 31 January 2025.

#### **4 RISK IMPLICATIONS**

- 4.1 Failure to properly consider the policy could result in the Council not complying with the legislation or statutory guidance. Having a clear policy helps to ensure that licensing decisions are fair, consistent and comply with the legislation.

#### **5 RESOURCE IMPLICATIONS**

- 5.1 There are no resource implications arising from the adoption of the Policy. The ongoing administration of the Policy will be carried out within existing resources.

#### **6 LEGAL IMPLICATIONS**

- 6.1 The policy has been drafted to reflect current legislative requirements and statutory guidance. The policy must be taken into consideration when making decisions in respect of matters relating to the Gambling Act 2005.

#### **7 EQUALITY AND DIVERSITY IMPLICATIONS**

- 7.1 An Equality Impact Settlement has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under The Equality Act 2010.

Rochford District Council

September 2021

# Statement of Licensing Policy Gambling Act

31 January 2022 – 30 January 2025



**If you would like this information in large print, Braille or another language, please contact 01702 318111.**

## **Preface**

This is the sixth statement of principles, which is known in this District as the Statement of Licensing Policy (Gambling Act 2005), that the council offers for consultation in accordance with the requirements of Section 349 of the Gambling Act 2005.

Since the adoption of the fifth statement the Gambling Commission has made further suggestions regarding the content of the premises local risk assessments and there has been a legislation update of the small society lotteries.

This statement sets out the principles that the Council, as the licensing authority for the Rochford District, will apply in carrying out its licensing functions for the three-year period commencing 31 January 2022.

This statement was reviewed in accordance with the requirements of the Gambling Act 2005 and regulations issued under it and in consideration of the Guidance to Licensing Authorities dated September 2015 and relevant Codes of Practice issued by the Gambling Commission.

1. The revised policy was offered for consultation between 10 September 2021 and 05 November 2021

The policy was approved by Full Council on xxxx and has effect from 31 January 2022 to 30 January 2025.

The Licensing Authority has published appendices to this Statement of Licensing Policy setting out general information and guidance on the various requirements in respect of making applications, the fees payable, making representations, hearings and reviews. The appendices were prepared subject to the Act, guidance and regulations current at the time. They may be amended from time to time and should not be taken as law and readers are advised to seek legal advice where appropriate.

The Gambling Act 2005 gives the Council discretion as to the question of issuing casino premise licences and provides that it may pass a resolution not to issue those licences during each three-year period the Statement of Licensing Policy has effect. Where the Council passes such a resolution, that fact must be published within the Statement of Licensing Policy.





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# 1 Introduction

- 1.1 This Statement of Licensing Policy sets out the principles the Council, as the Licensing Authority under the Gambling Act 2005, proposes to apply in discharging its functions to licence premises for gambling and in respect of:
- designating the body responsible for advising the authority on the protection of children from harm;
  - determining whether or not a person is an 'Interested Party';
  - exchanging information with the Gambling Commission and others; and
  - inspecting premises and instituting proceedings for offences.

## Description of the District

- 1.2 The area is predominantly rural in character with many smaller towns and villages and two main urban centres at Rochford and Rayleigh. It has a population of approximately 79,000 people.
- 1.3 The District offers a wide and developing variety of commerce, culture, history, recreation and dwellings. The transport infrastructure is extensive and expanding, being provided by mainline railway to London and Southend, local bus and taxi services and, currently under development, London (Southend) Airport.
- 1.4 At the time of publication of this policy, gambling in the District is carried out in five (5) premises licensed for betting, one (1) premise licensed as an adult gaming centre and forty five (45) premises consisting mainly of public houses and clubs with permits for gaming machines. There are thirty (30) small lotteries registered within the District.

## Consultation

- 1.5 The Gambling Act 2005 requires the Licensing Authority to publish a statement of licensing principles that it proposes to apply when discharging its functions for each three-year period, having consulted with:
- 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.
- 1.6 The Licensing Authority consulted on this Statement of Licensing Policy between 10<sup>th</sup> September 2021 – 05<sup>th</sup> November 2021 by sending a copy to:
- each of the Responsible Authorities;
  - each public library in the District;
  - each Council office in the District;

- each Parish Council in the District;
- persons representing interests of persons carrying on gambling businesses;
- persons representing the interests of persons likely to be affected by the exercise of the authority's function under the Gambling Act 2005;
- and by placing a copy of the policy on the Council's website.

1.7 This Statement of Licensing Policy has effect from 31 January 2022 – 30 January 2025.

1.8 The Gambling Act 2005 requires the Licensing Authority to monitor, review and, where appropriate, amend its statement and then republish it. The Licensing Authority will consult with those groups mentioned in paragraph 1.6 prior to amending any part of the statement. Appendix B is a list of consultees

## 2 General Principles

### The Licensing Objectives

- 2.1 In exercising most of its functions under The Gambling Act 2005, Licensing Authorities must have regards to the Licensing Objectives as set out in Section 1 of the Act.

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

- 2.2 Whilst the Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.
- 2.3 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 the need for conditions, such as the provision of door supervisors.
- 2.4 The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a licensing objective under the Gambling Act.

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

- 2.5 The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way as this is a matter more appropriate for the Gambling Commission.
- 2.6 The Licensing Authority notes however that, in relation to the licensing of tracks the Licensing Authority's role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

- 2.7 The Licensing Authority considers this objective to mean preventing children from taking part in gambling, as well as restrictions on advertising so that gambling products are not aimed at or are, particularly attractive to children.
- 2.8 The Licensing Authority will consider whether specific measures, e.g. supervision of entrances/machines, segregation of areas etc. are required at particular premises with regard to this licensing objective, each case being dealt with on its own merits.
- 2.9 In considering applications in respect of premises, the Licensing Authority will pay attention to the proposed location of gambling premises in terms of this licensing objective. The Authority will have regard to any relevant Codes of Practice issued by the Gambling Commission when considering specific premises, such as casinos.

- 2.10 The Authority regards the term “vulnerable persons” to apply to people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental health needs, learning disability or substance misuse relating to alcohol or drugs.

### **Responsibilities under the Act**

- 2.11 The Act has introduced a new licensing regime for commercial gambling to be conducted by the Gambling Commission and by Licensing Authorities.
- 2.12 The Gambling Act 2005 establishes each District and borough council as a Licensing Authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Rochford District Council is the Licensing Authority for the Rochford District.
- 2.13 The Gambling Commission are responsible for issuing operator’s and personal licences to persons and organisations who:
- operate a casino;
  - provide facilities for playing bingo or for pool betting;
  - act as intermediaries for betting;
  - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
  - manufacture, supply, install, adapt, maintain or repair gaming machines;
  - manufacture, supply, install or adapt gambling software; or
  - promote a lottery.
- 2.14 The Licensing Authority is responsible for a number of functions including:
- The issue of premises licences in respect of premises where gambling activities are to take place.
  - The issue of provisional statements.
  - The issue of club gaming permits and/or club machine permits to members’ clubs and miners’ welfare institutes.
  - The issue of club machine permits to commercial clubs.
  - The issue of permits to unlicensed family entertainment centres for the use of certain lower stake gaming machines.
  - The issue and regulation of gaming and gaming machines in alcohol licensed premises.
  - The registration of small society lotteries.

- The issue of prize gaming permits.
- The receipt and endorsement of temporary use notices.
- The receipt of occasional use notices.
- The provision of information to the Gambling Commission about licences issued (see para 2.50 on information exchange).
- The keeping of registers of the permits and licences issued under these functions.
- The exercise of its powers of compliance and enforcement under the 2005 Act in partnership with the Gambling Commission and other relevant responsible authorities.

**NB** It should be noted that the Licensing Authority's functions do not include matters concerning the National Lottery, Remote Gambling or Spread Betting.

- 2.15 Applications must be determined in a manner that is reasonably consistent with the licensing objectives.
- 2.16 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as it thinks it to be:
- consistent with the Codes of Practice,
  - consistent with Guidance issued by the Commission,
  - reasonably consistent with the Licensing Objectives,
  - in accordance with their Statement of Policy.
- 2.17 Before the Licensing Authority can consider an application for a premises licence, an operator's licence must have been obtained or applied for from the Gambling Commission.

## Delegation

- 2.18 With the exception of the approval and review of its Statement of Licensing Policy and any other matters prescribed, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.
- 2.19 Appendix C contains a table setting out delegations in respect of how the Licensing Authority intends to discharge its various functions.

## Statement of Licensing Policy

- 2.20 The Licensing Authority is required by the Gambling Act 2005 to publish a statement of the principles that they propose to apply when exercising their functions.
- 2.21 The statement must be published at least every three years and must also be reviewed periodically and, where appropriate, amended.

- 2.22 The Licensing Authority will consult with those groups mentioned in paragraph 1.5 above prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future three-year period.

### Approval of Policy

- 2.23 This Statement of Licensing Policy was approved at a meeting of the full Council on xx December 2021 and takes effect on 31 January 2022.
- 2.24 Any comments concerning this statement should be sent via e-mail to **licensing@rochford.gov.uk** or by letter to the Licensing Team, Rochford District Council, South Street, Rochford, Essex SS4 1BW.
- 2.25 This statement will not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each will be considered on its own merit and according to the requirements of the Gambling Act 2005.
- 2.26 The policy can be viewed at the Council's offices or on the Council's website on **www.rochford.gov.uk**

### Declaration

- 2.27 In producing this Statement of Licensing Policy, the Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission under the Act and any responses from those consulted on the policy statement.
- 2.28 The Licensing Authority recognises its diverse responsibility under equality legislation and will monitor the impact of their statutory duties through the Council's Equalities & Diversity Policy.

### Disclaimer

- 2.29 Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers and should not be interpreted as legal advice or as constituent of Rochford District Council's Statement of Licensing Policy (Gambling Act 2005). Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or of the Guidance or Regulations issued under the Act.

### Responsible Authorities

- 2.30 The Gambling Act 2005 prescribes the Responsible Authorities that have statutory functions or are considered to be statutory consultees under the Act.
- 2.31 The Licensing Authority is required to designate in writing a body that is competent to advise it about the protection of children from harm. The Authority has applied the following considerations in discharging its responsibility:
- the competency of the body to advise the Licensing Authority;



- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area;
- the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.

2.32 The Licensing Authority designates the Essex County Council Children's Safeguarding Service for this purpose.

2.33 Appendix D contains the contact details of all the Responsible Authorities under the Gambling Act 2005.

### Interested Parties

2.34 Interested Parties can make representations about licensing applications or apply for a review of an existing licence.

2.35 The principles the licensing authority will apply to determine whether a person is an interested party are that:

- each case will be decided upon its merits;
- the authority will not apply a rigid rule to its decision-making and will consider the examples of considerations provided in the Gambling Commission's guidance for local authorities,
- the authority 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.

2.36 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 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 paragraphs (a) or (b).

2.37 Interested Parties can be persons who are democratically elected such as District and parish 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.

2.38 District councillors who are members of the Licensing Committee will not qualify to act in this way.

2.39 This Authority will generally require written evidence that a person is authorised to represent an Interested Party.

- 2.40 The Licensing Authority considers that Trade Associations, Trade Unions and Residents and Tenants Associations qualify as Interested Parties where they can demonstrate that they represent persons in paragraph 2.35 (a) or (b).
- 2.41 This authority will not however generally view these bodies as Interested Parties unless they have a member who can be classed as an Interested Party.
- 2.42 In determining if a person lives or has business interests sufficiently close to the premises that are likely to be affected by the authorised activities the Licensing Authority will consider the following factors:
- The size of the premises.
  - The nature of the premises.
  - The distance of the premises from the location of the person making the representation.
  - The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment).
  - The nature of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises.
  - The catchment area of the premises (i.e. how far people travel to visit).
  - Whether the person making the representation has business interests that might be affected in that catchment area.

### **Considerations in Licensing of Premises**

- 2.43 The Licensing Authority will consider whether the grant of a licence or permit will result in issues of crime and disorder or exposing children or vulnerable adults to harm or of being exploited by gambling.
- 2.44 It has been recognised by the Gambling Commission that gambling related harm is a public health issue. Whilst it is a legitimate leisure activity for many, there are a significant number of people who experience significant harm, such as physical and mental illness, due to gambling dependencies. In some cases, the harm can lead to relationship breakdown and criminality. The harm can also be experienced by family members and friends. As part of the local risk assessments, operators will be required to consider practices and procedures to help address the potential harm.
- 2.45 Since April 2016, gambling operators must undertake a local risk assessment for the premises as part of the application process. Risk assessments are to be kept at the individual premises and made available to the authority for inspection. The risk assessment may wish to consider the following points when assessing the risks:
- the procedures in place to conduct age verification checks and/or a proof-of-age scheme, where premises are subject to age restrictions;

- physical security features in the premises, e.g. the position of cash registers, CCTV installation;
- the design and layout of the premises, including physical separation of areas and location of entrances/entry points;
- door supervision and supervision of entrances/entry points and machine areas;
- training given to staff appropriate to the premises;
- notices or signage;
- specific opening hours;
- Demonstrate how the Operator will regard local risks and concerns and protect local vulnerable groups.
- Consideration to the location of services for children and vulnerable groups shown on the area profile <https://www.rochford.gov.uk/betting-gaming-and-lotteries>
- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- The layout of the premises so that the staff have an unobstructed view of the persons using the premises.
- Arrangements for monitoring and dealing with underage persons and vulnerable persons which may include the use of self barring schemes, leaflets, posters, help line numbers for organisations such as GamCare (<https://www.gamcare.org.uk/our-work/awareness-training/problem-gambling-awareness/>).

2.46 The Licensing Authority will give favourable consideration to licence applications resulting from re-siting of premises within the same locality and extensions in order to enhance the quality of facilities provided but this is without prejudice to the determination of any planning application that may be required.

2.47 Appendix F contains further information on the premises licences application process and additional documentation the Licensing Authority requires in determining the application.

### Door Supervisors

2.48 If a licensing authority attaches a condition relating to door supervision, and the person carrying out those duties are required by the Private Security Industry Act 2001 (PSIA) to hold a licence, section 178 of the Gambling Act 2005 prescribes that the requirement under PSIA will be treated as if it were a condition of the premises licence.

- 2.49 There is, however, an exemption from the PSIA licensing requirement for in-house employees working as door supervisors at casino and bingo premises, details of which can be found on the gambling commission website.
- 2.50 Section 178 of the Gambling Act 2005 defines door supervision as requiring someone to be responsible for 'guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage'.

### **Moral Objections/Unmet Demand**

- 2.51 Moral objections to gambling are not a valid reason to reject applications for premises licences and unmet demand is not a criterion for a Licensing Authority to consider.

### **Location**

- 2.52 The question of where a premise is located will only be considered by the Authority within the context of the licensing objectives and each application will be decided on its own merit.

### **Exchange of Information**

- 2.53 In its exchange of information with parties listed in Schedule 6 of the Act the Licensing Authority will have regard to:
- the provisions of the Gambling Act 2005, which includes the provision that the Data Protection Act 1998 will not be contravened;
  - the guidance issued by the Gambling Commission;
  - the Data Protection Act 1998;
  - the Human Rights Act 1998;
  - the Freedom of Information 2000;
  - the Environmental Information Regulations 2004;
  - the Common Law Duty of Confidence;
  - the Electronic Communications Act 2000
  - Computer Misuse Act 1990
  - Criminal Procedure and Investigations Act 1996
  - Crime and Disorder Act 1998.
- 2.54 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail of:
- record of data disclosed;

- project chronology; and
- notes of the meeting with other partners and recent correspondence from phone calls.

## **Licensing Register**

2.55 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

## **Enforcement**

- 2.56 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promulgated by the Better Regulation Executive and the Hampton/McCory Reviews will endeavour to be:
- Proportionate – intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
  - Accountable – authorities must be able to justify decisions and be subject to public scrutiny.
  - Consistent – rules and standards must be joined up and implemented fairly.
  - Transparent – enforcement should be open and keep regulations simple and user friendly.
  - Targeted – enforcement should be focused on the problems and minimise side effects.
- 2.57 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk-based inspection programme.
- 2.58 Where a single point of contact has been supplied by the operator of a number of premises within Rochford District, the Authority will endeavour to contact that person first in respect of any enforcement issues that might arise.
- 2.59 The main enforcement and compliance role of the Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences, Permits and Registrations that it issues.
- 2.60 The Gambling Commission is the enforcement body for Operator and Personal Licences and for concerns about the manufacture, supply or repair of gaming machines.
- 2.61 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

- 2.62 The Licensing Authority's enforcement/compliance protocols and written agreements and details of the risk-based approach to inspection will be available by contacting the Licensing Team, Rochford District Council, 3–19 South Street, Rochford, SS4 1BW, phone 01702 318148 or by email to: **[licensing@rochford.gov.uk](mailto:licensing@rochford.gov.uk)**

### 3 Premises Licences

- 3.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions or to attach others, where it is thought appropriate.
- 3.2 Licensing Authorities are required by the Gambling Act to aim to permit the use of premises for gambling 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 Principles.

#### Definition of Premises

- 3.3 A premise is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of the building can be properly regarded as being separate premises which will always be a question of fact in the circumstances that will be considered in light of guidance issued by the Gambling Commission.
- 3.4 The Authority does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 3.5 Where applications are submitted for multiple licences for a building or for a specific part of a building to be licensed, the Authority expects that entrances and exits from a part or parts of a building covered by one or more licences should be separate and identifiable. This is to ensure a separation of different premises and that people do not 'drift' into a gambling area from another area. ~~that is not.~~
- 3.6 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises, which themselves may be licensed or unlicensed, and will consider, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act.
- 3.7 In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would or should be prohibited under the Act.

#### Duplication with other Regulatory Regimes

- 3.8 Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be awarded Planning or Building Control consent, in its consideration of it.

## Premise Licence Conditions

- 3.9 The Act provides that licences may be subject to conditions in a number of ways:
- they may attach automatically, having been set out on the face of the Act
  - they may attach through regulations made by the Secretary of State or Scottish Ministers
  - they may be attached to operating and personal licences by the Gambling Commission
  - they may be attached to premises licences by licensing authorities.
- 3.10 Any conditions attached to premises licences will be appropriate, proportionate and will be:
- only considered where there is clear evidence of a risk to the licensing objectives that is not adequately addressed by the mitigation measures proposed in the applicants risk assessment
  - 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.
- 3.11 Decisions upon individual conditions will be made on a case-by-case basis. Consideration will be given to using control measures, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. should there be a perceived need.
- 3.12 Where an applicant is suggesting its own conditions and ways of meeting the licensing objectives, this should be recorded within the risk assessment where the applicant will identify risks to the licensing objectives in the local area and will be expected to outline in their policies and procedures measures they propose to put in place to mitigate the identified risks.
- 3.13 The Licensing Authority will not refuse an application for a premises licence where relevant objections can be dealt with by use of appropriate conditions.
- 3.14 For buildings subject to multiple premises licences, the Licensing Authority will consider specific measures that may be required, such as:
- 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.

3.15 It is noted that the Licensing Authority cannot attach conditions to premises licences that:

- makes it impossible to comply with an Operating Licence condition;
- relate to gaming machine categories, numbers or method of operation;
- provide that membership of a club or body be required;
- relate to stakes, fees or winning of prizes.

### **Provisional Statements**

3.16 The Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with Planning or Building Law.

### **Casinos**

3.17 As provided by Section 166 of the Gambling Act 2005, the Licensing Authority has resolved not to issue casino premise licences for the three-year duration of this policy.

3.18 This decision was taken following consideration of the current regulations in respect of casino licences, the government criteria for authorities to issue such licences and responses to the consultation process carried out in preparation of this policy.

3.19 This matter will continue to be reviewed as part of the on-going review process of the Statement of Licensing Policy.

### **Casinos and Competitive Bidding**

3.20 The Licensing Authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino there are likely to be a number of operators which will want to run a casino.

3.21 If such situations arise in the future, this Authority will run a competition in line with Regulations and Codes of Practice issued under the Gambling Act 2005 by the Secretary of State.

### **Bingo Premises**

3.22 Bingo premises are not generally age-restricted, although certain areas within them may be, e.g. where machines of Category C or above are situated.

3.23 The Licensing Authority will consider any further guidance to be issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

## **Door Supervisors**

- 3.24 The Licensing Authority requires any person employed at a casino or bingo premises as a door supervisor must hold a current licence granted under the Private Security Industry Act 2001. (PSIA)

## **Credit and Cash Dispensers**

- 3.25 Credit facilities are prohibited from being provided.
- 3.26 Cash machines may be installed in licensed premises but the Licensing Authority may apply conditions on their siting where they are installed in bingo premises.

## **Betting Offices and Machines**

- 3.27 The Licensing Authority can restrict the number of betting machines (a machine designed or adapted for use to bet on future real events, these are not gaming machines), their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence.
- 3.28 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority will consider:
- each application its own merit;
  - the size of the premises;
  - the number of counter positions available for person to person transactions;
  - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
  - evidence that such machines have been or are likely to be used in breach of licensing objectives;
  - the relevant Codes of Practice or Guidance issued under the Gambling Act 2005 by the Secretary of State.
- 3.29 In addition, details of GAMCARE and the facilities offered will be included in the appendices to the policy, on the Council's website and also made available in Council reception areas.

## **Tracks**

- 3.30 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.
- 3.31 The licensing authority will consider the need to ensure that entrances to each type of premises are distinct and that children are prevented from entering gambling areas where they are not permitted.

## Adult Gaming Centres and Family Entertainment Centres

- 3.32 The Licensing Authority will consider the need to apply appropriate conditions in respect of delineating any area containing Category C machines from other forms of amusement.

## Representations and Reviews

- 3.33 Responsible Authorities (including the Licensing Authority) and Interested Parties may make representations in respect of applications for the grant or variation of a premise's licences and may apply for review of a premises licence.
- 3.34 For the purposes of exercising the Licensing Authority's discretion, the persons authorised to make representations and apply for reviews of a premises licence are:
- Members of the Licensing Authority, other than Members of the Licensing Committee, and
  - the staff of the Council's Licensing Team.
- 3.35 The Licensing Authority may determine that a representation:
- is frivolous or vexatious,
  - will certainly not influence the Authority's determination of the application or review or wish to alter/revoke/suspend the licence.
- 3.36 The Licensing Authority may reject an application for review of a premises licence if they determine the grounds for the review:
- do not raise a relevant issue to the principles contained in paragraphs 2.1 – 2.10 above;
  - are frivolous or vexatious;
  - will certainly not cause the Authority to alter/revoke/suspend the licence;
  - are substantially the same as representations made in respect of the application for the premises licence.
- 3.37 There is no appeal against the Authority's determination of the relevance of a representation or an application for review.
- 3.38 Appendix E contains further information on making representations and applying for reviews of premise's licences.

## Travelling Fairs

- 3.39 No authorisation is required for a travelling fair as there is no limit on Category D machines.
- 3.40 The Licensing Authority will also consider if the applicant falls within the statutory definition of a travelling fair.

- 3.41 It should be noted that the statutory maximum of 27 days 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 or not it is the same travelling fair occupying the land.
- 3.42 Where the 27-day statutory limit is exceeded, a TUN will have to be issued or Premises Licence applied for, as appropriate.
- 3.43 This Licensing Authority will work with our neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 4 Gaming Machine Permits

### Unlicensed Family Entertainment Centre Gaming Machine Permits

- 4.1 A premises licence is unnecessary in respect of premises where gaming machines of Category D only are to be provided. In such cases an application may be made to the Licensing Authority for a permit, but the Authority has to be satisfied that the premises will be wholly or mainly used for making gaming machines available for use.
- 4.2 The Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.
- 4.3 Where the Licensing Authority intend to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

### Statement of Principles

- 4.4 The Licensing Authority will specifically have regard to those matters contained within Section 2, paragraph 2.43–2.46 concerning matters to be considered in licensing of premises.
- 4.5 The Licensing Authority will expect the applicant to show that there are written 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.
- 4.6 The efficiency of such policies and procedures will be considered on their merits and may, for example, include such measures as:
- Criminal Record Check from Disclosure and Barring (DBS) checks for staff;
  - staff training in how to deal with suspected truant school children, or unsupervised, very young children on the premises, or children causing perceived problems on/around the premises.
- 4.7 The 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 FEC's;
  - the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - staff is trained to have a full understanding of the maximum stakes and prizes.
- 4.8 Appendix G contains further information on unlicensed family entertainment centres, the application process and additional documentation the Licensing Authority requires in determining the application.

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

- 4.9 A permit under this section cannot be issued in respect of premises for which a premises licence under the Gambling Act 2005 has been granted.
- 4.10 The holder of a premises licence under the Licensing Act 2003 that authorises the sale and consumption of alcohol on premises, which contain a bar at which alcohol is served but without the requirement that food is also served, is automatically entitled to operate two gaming machines of categories C or D.
- 4.11 In order to do so they must first notify the Licensing Authority of their intention to do so and pay the prescribed fee.
- 4.12 It should be noted that those restaurants that did not seek to remove the restriction on the sale of alcohol with food that applied if they had a restaurant licence under the Licensing Act 1964, will not qualify to an automatic entitlement to gaming machines.
- 4.13 Where a permit has been issued under Section 34 of the Gaming Act 1968, the licence-holder must notify the Licensing Authority at least two months prior to its date of expiry.
- 4.14 The Licensing Authority may issue licensed-premises gaming machine permits authorising the use of any number of categories C or D machines. In determining an application for an increase in the number of machines, the Licensing Authority will consider:
- the size of the premises;
  - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons;
  - any documentary evidence, e.g. supporting statistical evidence providing details of usage, etc.;
  - each application on its own merits;
  - the Codes of Practice or Guidance issued under the Gambling Act 2005.
- 4.15 Once issued there is no requirement to renew a permit. An annual fee has to be paid.
- 4.16 Where the Licensing Authority intend to refuse an application or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.
- 4.17 The Licensing Authority may consider removing the automatic entitlement for a permit if:
- provision of the machines is not reasonably consistent with the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of the Act, e.g. machines have been made available other than in a way that complies with requirements concerning their location and operation;

- the premises are mainly used for gaming;
- an offence under the Gambling Act 2005 has been committed on the premises.

4.18 Where the Licensing Authority consider exercising their powers to remove the entitlement, the permit-holder must be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

4.19 Appendix G contains further information on gaming machines in alcohol-licensed premises, the application process and additional documentation the Licensing Authority requires in determining the application.

### Prize Gaming Permits

4.20 Prize gaming is gaming in which the nature and size of the prize is not determined by the number of players or the amount paid or raised by the gaming, the prizes having been determined before play commences, e.g. bingo with non-cash prizes. (Note: bingo with cash prizes and that carried on in commercial bingo halls will need to be licensed by the Gambling Commission.)

4.21 Prize gaming may be carried on in premises under a permit issued by the Licensing Authority.

4.22 The Licensing Authority may refuse an application on the grounds that its grant or renewal would not be reasonably consistent with the pursuit of the licensing objectives.

4.23 In determining an application, the Licensing Authority need not have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

4.24 Where the Licensing Authority intend to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

### Statement of Principles

4.25 The Licensing Authority will specifically have regard to those matters contained within Section 2, paragraph 2.43–2.46 concerning matters to be considered in licensing of premises.

4.26 The Licensing Authority will expect the applicant to show that there are written 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.

4.27 The efficiency of such policies and procedures will be considered on their merits and may, for example, include such measures as:

- Criminal Record Check from Disclosure and Barring (DBS) for staff;
- staff training in how to deal with suspected truant school children, or unsupervised, very young children on the premises, or children causing perceived problems on/around the premises.

4.28 The Licensing Authority also expects that applicants:

- set out the type/s of gaming that it is intended to be offered;
- demonstrate a full understanding of the maximum stakes and prizes of the gaming that is permitted, and that staff receive appropriate training in relation to those matters;
- have no relevant convictions (those that are set out in Schedule 7 of the Act).

4.29 Appendix G contains further information on prize gaming, the application process and additional documentation the Licensing Authority requires in determining the application.

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

### **Members' Clubs and Miners' Welfare Institutes**

- 4.30 Members' Clubs and Miner's Welfare Institutes may apply for either a Club Gaming Permit or Club Gaming Machine Permit.
- 4.31 Club Gaming Permits authorise the provision of equal-chance gaming, games of chance and a maximum of three gaming machines of Category B4, C or D, equal chance gaming and other games of chance (as prescribed in regulations).
- 4.32 A Club Gaming Machine Permit enables the premises to provide a maximum of three gaming machines only, of Category B3a, C or D.

### **Commercial Clubs**

- 4.33 Commercial or proprietary clubs may only apply for a Club Gaming Machine Permit enabling the premises to provide a maximum of three gaming machines only, of Category B4, C or D.
- 4.34 Premises that have work-based members' social clubs, but which may not be licensed to sell or supply alcohol, may apply for a permit. This type of premises includes, for example, those where machines are sited in works' canteens.
- 4.35 Before granting a permit to premises described in the preceding paragraph, the Licensing Authority will need to be satisfied that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age.
- 4.36 Both categories of permits have effect for 10 years. An annual fee has to be paid on the anniversary of the permit's grant.
- 4.37 Appendix G contains further information on gaming in club premises, the application process and additional documentation the Licensing Authority requires in determining the application.



## 5 Temporary and Occasional Use Notices

### Temporary Use Notices (TUN's)

- 5.1 A TUN may only be granted to a person or company holding an operating licence relevant to the temporary use of the premises.
- 5.2 The type of activity for which a TUN may be issued is determined by the Secretary of State. Currently, a TUN may only be issued in respect of Equal Chance Gaming.
- 5.3 A set of premises is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.
- 5.4 In considering whether a place falls within the definition of "a set of premises", the Licensing Authorities will consider, amongst other things, the ownership/ occupation and control of the premises.
- 5.5 The Licensing Authority will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.
- 5.6 Appendix F contains further information.

### Occasional Use Notices (OUN's)

- 5.7 OUN's apply only to tracks, which can be any part of a premise on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.
- 5.8 OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a betting premises licence for the track.
- 5.9 The Licensing Authority has very little discretion as regards these notices, aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded.
- 5.10 The Licensing Authority will, however, consider the definition of a "track" and whether the applicant is permitted to avail him/herself of the notice.
- 5.11 Appendix F contains further information on these notices.

## 6 Lotteries

- 6.1 A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or is exempt from such a licence.
- 6.2 There are four types of exempt lottery:
- An Incidental Non – commercial Lottery.
  - A Private Lottery.
  - A Customer Lottery.
  - A Small Society Lottery.
- 6.3 A Small Society Lottery must be registered with the Licensing Authority.
- 6.4 Local authorities may promote a lottery for the benefit of the community under an operating licence issued by the Gambling Commission.
- 6.5 Appendix J contains further information concerning lotteries, generally, and requirements for registration

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# GOSSCHALKS

BY EMAIL ONLY  
LICENSING SECTION  
ROCHFORD DISTRICT COUNCIL

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** rjt@gosschalks.co.uk  
**Our ref:** RJT / MJM / 123267.00001  
#GS4174582  
**Your ref:**  
**Date:** 28 October 2021

Dear Sirs,

## Re: Gambling Act 2005 Policy Statement Consultation

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

### The Betting and Gaming Council

The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

BGC members support 119,000 jobs and account for £4.5 billion to the Treasury annually in tax. Recent study also showed that BGC members contributed around £7.7 billion in gross value added to the UK economy in 2019.

The gambling industry is integral to the survival of sport. Betting companies spend over £40 million a year on the English Football League (EFL) and its clubs. Horse racing, an industry estimated to be worth £3.5 billion a year to the UK economy and which generates 85,000 jobs receives over £350 million per annum through the Horse Racing Industry Levy, media rights and sponsorship. Darts and Snooker receive in excess of £10 million per annum which represents 90 % of all sponsorship revenue.

The BGC has four principal objectives. These are to –

- **create a culture of safer gambling throughout the betting and gaming sector, with particular focus on young people and those who are vulnerable**
- **ensure future changes to the regulatory regime are considered, proportionate and balanced**

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- become respected as valuable, responsible and engaged members of the communities in which its members operate
- safeguard and empower the customer as the key to a thriving UK betting and gaming industry

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

### **Betting and Gaming in the UK**

Betting and gaming is an incredibly important part of the UK leisure and hospitality industry, employing over 70,000 people, including 50,000 in betting, 13,000 in casinos and 10,000 people directly employed online. The betting and gaming industry contributes £8.7 billion Gross Value Added to the UK economy & contributes £3.2 billion to HM Treasury. In addition, casinos contribute over £120 million to the tourism economy each year.

Betting and gaming is widely enjoyed in the UK. Around 30 million people participate in some sort of gambling, whether that is on the National Lottery, placing a bet in betting shops, playing in casinos or at bingo. The overwhelming majority of these people do so safely without reporting any problems.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that the number of betting offices (as of March 2020) was 7681. This is reducing every year and has fallen from a figure of 9137 in March 2014. Covid 19 had a devastating effect on the betting industry. The number of betting offices in June 2020 was down to 6461.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- In April 2019 a maximum stake of £2 was applied to the operation of fixed odds betting terminals
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable and possibly falling.

### **Problem Gambling**

Problem gambling rates are static or possibly falling. The reported rate of 'problem gambling' (according to either the DSM-IV or the PGSI) was 0.8% of the adult population in 2015, in 2016 it was 0.7% and in 2018 it was 0.5% of the adult population.

This is termed statistically stable but is encouraging that we might finally be seeing a reduction in problem gambling due to the raft of measures that have been put in place recently both by the industry, the Gambling Commission and the Government – from a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures and voluntary restrictions on advertising. These rates have remained broadly the same since the introduction of the Gambling Act 2005.

Whilst one problem gambler is too many, both the Government and regulator both say there is no evidence that problem gambling has increased in recent years.

During the Covid-19 period of lockdown, both the Gambling Commission and Government have acknowledged that problem gambling levels have not increased.

In June 2020, the BGC's five largest members committed to increasing the amount they spend on research, education and treatment (RET) services from 0.1 per cent to 0.25 per cent of their annual revenue in 2020, 0.5 per cent in 2021, 0.75 per cent in 2022 and 1 per cent in 2023. The five operators confirmed they will provide £100 million to GambleAware charity to improve treatment services for problem gamblers.

Rates of 'problem gambling' in the UK are low by international standards – compared to France (1.3%), Germany (1.2%), Sweden (2.2%) and Italy (1.27%).

The BGC supported the creation of the new NHS gambling treatment clinics who have promised 22 clinics, 3 of which are open now. We are pleased that the NHS have committed to work to increase the number of clinics in the UK in addition to existing serviced delivered by Gordon Moody Association and GamCare's 120 treatment centres located throughout the UK.

The BGC welcomes the Gambling Commission's National Strategy was a way of accelerating progress on responsible gambling and tackling problem gambling. Our members are fully committed to meeting this challenge and are working tirelessly to deliver new responsible gambling initiatives including technology that tackles problem gambling and supporting a statutory levy and increased funding for problem gambling clinics.

Underage participating by those aged 11-16 in any gambling activity has declined from 22% to 11% over the past decade; here, 'gambling activity' mainly relates to personal betting (e.g. playing cards with friends) and legal play of lotteries (e.g. participating with consent of parents / guardians). BGC members have a zero tolerance to those under the age of 18 attempting to use their products.

### **Working in partnership with local authorities**

The BGC is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

## **Differentiation between Licensing Act 2003 and Gambling Act 2005 applications**

When considering applications for premises licences, it is important that a clear distinction is made between the regimes, processes and procedures established by Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities – the regimes, processes and procedures relating to Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, those steps being then converted into premises licence conditions, there is no such requirement in Gambling Act 2005 applications where the LCCP provide a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%.

When reviewing draft statements of principles in the past, we have seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

## **Considerations specific to the draft statement of licensing policy Gambling Act 31<sup>st</sup> January 2022 to 30<sup>th</sup> January 2025**

1. Paragraph 2.45 explains the requirement contained within SR Code Provision 10 that operators must undertake a local risk assessment as part of the application process. Thereafter, this paragraph prescribes what the risk assessment is to include. This paragraph would benefit from being re-drafted to reflect the requirements of SR Code Provision 10 and the bullet points that follow, given as examples of what may be relevant when assessing risks and the policies, procedures and mitigation measures to be implemented to address those identified risks.



2. Paragraph 2.48 oversimplifies the law. This paragraph states “*any person that is employed as a door supervisor at any premises, other than those employed in-house in a casino or bingo hall has to be licensed by the Security Industry Authority*”. This may be the Licensing Authority’s policy, but it is not the law. Section 178 Gambling Act 2005 requires that where a condition for door supervision is attached to a premises licence then the person carrying out the guarding must be SIA licensed (unless he/she is employed in-house in a casino or bingo hall). This paragraph should be re-drafted to reflect the law and the Licensing Authority’s policy.
3. It appears (from paragraph 3.22) that the Licensing Authority’s policy is that even persons employed as door supervisors at casino or bingo premises must be SIA licensed although this is at odds with the existing statement in paragraph 2.48. These paragraphs must be consistent.
4. Paragraphs 3.9 to 3.13 explain the Licensing Authority’s approach to the imposition of conditions on premises licences. This section would be assisted by a clear explanation that the mandatory and default conditions that attach to all premises licences are intended to be sufficient to ensure operation that is reasonably consistent with the licensing objectives.
5. This section should also state that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives that is not adequately addressed by the mitigation measures proposed in the applicant’s risk assessment.
6. Finally, this section states “*applicants will also be expected to offer their own suggestions as to the way in which the licensing objectives can be effectively met.*” This is contained in a section headed “conditions”. This section should be amended to make it clear that where an applicant is suggesting its own ways of meeting the licensing objectives, this is an issue for the local area risk assessment rather than within the application itself. It is important to differentiate between Licensing Act 2003 applications (where there is the ability/mechanism to “suggest” conditions or where statements in an operating schedule can be “converted into” conditions) and Gambling Act 2005 applications where the process does not anticipate this. Within the risk assessment an applicant will identify risks to the licensing objectives in the local area and outline in that document the policies, procedures and mitigation measures to be put in place to mitigate the identified risk.

It is important that these policies and procedures are dealt with in the risk assessment rather than by way of licensing conditions as the risk assessment is a dynamic document and (in accordance with SR Code Provision 10.1.2) must be reviewed if there is a significant change in local circumstances. Therefore, as risks changes or new risks are identified, the policies, procedures and mitigation measures to address those identified risks may be changed very quickly. However, if the mitigation measures are the subject of premises licence conditions, then an application for the variation of a premises licence will be required to change those conditions. This could delay any change and would cause unnecessary expense and administration for both operators and the Licensing Authority.

7. Paragraph 3.25 refers to the Licensing Authority's ability to restrict the number of betting machines within a betting office. This section should be expanded to differentiate between betting machines and gaming machines. Whilst the Licensing Authority have the power to limit the number of betting machines in a betting office, there is no such power to limit the number of gaming machines. The holder of a betting premises licence may make available for use up to 4 gaming machines of categories B, C or D.

## **Conclusion**

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope that these comments above are useful. The BGC will work with you to ensure that its members' operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,



**GOSSCHALKS LLP**