

CONSULTATION ON DRAFT STATEMENT OF LICENSING PRINCIPLES FOR GAMBLING

1 SUMMARY

- 1.1 This report details the response to consultation on the Council's draft policy for gambling that was carried out between 6 July 2009 and 4 October 2009.
- 1.2 It proposes no changes to the original draft and seeks Members' approval for placing before Council on 15 December 2009.
- 1.3 It also seeks Members' recommendations to Council on the question of whether or not the Licensing Authority should exercise its discretion to resolve not to issue casino licences.

2 INTRODUCTION

- 2.1 Section 349 of the Gambling Act 2005 requires the Council to determine and to publish its licensing policy in respect of each 3-year period commencing on 3 January 2007.
- 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 draft reviewed policy was considered and approved for consultation by the Licensing Committee on 29 June 2009 (Appendix A), subject to the amendments shown in the Minutes. The policy was printed and circulated for consultation to those mentioned above and for display at local libraries and Council offices.
- 2.4 In addition, the draft policy was published on the Council's website. A list of those to whom the policy was sent is shown at Appendix B.

3 RESPONSE TO CONSULTATION

- 3.1 None of the Responsible Authorities responded to the consultation.
- 3.2 Only one response was received from the other bodies consulted, the Salvation Army, and a copy is attached at Appendix C.
- 3.3 The response commends the Council for its Statement of Policy and has notified other Licensing Authorities that "Rochford Council is an example of good practice".
- 3.4 There are two recommendations made within the response:-
 - 1) that door supervisors are made compulsory at gambling venues.

- 2) that ATMs should not be sited inside licensed premises and if they are they should be sited in designated 'non gambling areas' or 'chill-out zones.'
- 3.5 In respect of door supervisors, the Licensing Authority can impose a condition requiring door staff at licensed premises, but for this to be imposed without challenge it would have to be shown that the condition was necessary and proportionate with regards to the licensing objective and the conduct of the premises.
- 3.6 For Door Supervisors to be compulsory it would require an amendment to the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) regulations 2007.
- 3.7 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 state "Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so."
- 3.8 As the majority of premises do not have space for 'non gambling areas' or 'chill-out zones' it would again require a change in the regulations in order to impose such a condition without challenge.

Policy Presentation

- 3.9 LACORS has consistently emphasised that the policy should be a high-level, strategic document containing as little as possible 'non-policy' matters, eg, advisory or informative matters more appropriately produced in appendices.

4 RISK IMPLICATIONS

4.1 Strategic Risk

There is a statutory obligation for the statement of licensing principles to be published by 3 January 2010. Amendments to the draft policy have to be decided and implemented for consideration and ratification by Full Council on 15 December 2009.

4.2 Reputation Risk

If successfully challenged on the content of the policy, the Council's reputation would be harmed.

4.3 Regulatory Risk

The Committee is bound by the provisions of the Act, the statutory guidance issued by the Gambling Commission and its own statement of licensing principles in administration of the licensing regime and in determining licensing issues. The Council cannot permit a situation to arise whereby its policy has not been approved by Full Council and published by 3 January 2010.

5 LEGAL IMPLICATIONS

- 5.1 There may be a potential for decisions made in determining licensing applications to become subject of judicial review or appeal if the statement of licensing principles has neither been approved by Full Council nor published by 3 January 2010, or the policy is subject to legal challenge.

6 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

- (1) To consider the responses received to the draft principles and agree appropriate amendments, if considered necessary.
- (2) That Council be recommended to pass a “no casino” resolution and that this be inserted into the Statement of Principles.
- (3) That Council be recommended to approve and adopt the amended Statement of Principles that will be applied in exercising functions under the Gambling Act 2005 for the three-year period commencing on 3 January 2010.

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Background Papers:-

None.

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Preface

The Gambling Act 2005 received Royal Assent on 7 April 2005, bringing a number of previous Acts regulating betting, gaming and lotteries into one regulatory piece of legislation.

The Government passed an order under schedule 18 of the Act prescribing 'transitional arrangements' to provide a swift and effective change from the old regimes to the new. The arrangements, which took effect from 1 September 2006, provide 'continuation' and 'grandfather' rights for existing licence-holders and permit-holders.

The Act established the Gambling Commission to be responsible for issuing operator and personal licences for gaming, bingo, betting, and lotteries and for manufacturing and supplying gaming machines and software. Licensing Authorities, within District Councils, were established to be responsible for issuing premises licences and permits in respect of gaming and registering small lotteries.

Each Licensing Authority is required to publish a statement of the principles it will apply in carrying out its licensing functions for each 3-year period commencing on 31 January 2007. In this District the statement will be known as the Statement of Licensing Policy (Gambling Act 2005).

The essential content, the method of preparation and the prescribed list of persons with whom the Authority must consult on the policy have been laid down in the Act, in guidance issued by the Gambling Commission and in regulations issued by the government. Appendix B contains a list of all persons and groups consulted by the Council, or to whom a copy of the draft policy was sent.

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 3-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.

During the consultation on its proposed policy, the Council specifically invited comments in respect of the question of issuing casino premise licences. No responses were received.

At its meeting on 15 December 2009 the Council, having considered all responses to the consultation process, passed a resolution not to issue casino premise licences and approved its Statement of Licensing Policy accordingly.

Details of the responses to this consultative process, and of the Council's consideration of those comments, are available on request to the Licensing Unit, Rochford District Council, 3–19 South Street, Rochford, Essex, SS4 1BW and may also be viewed on the Council's website at: **<http://www.rochford.gov.uk>**

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.

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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 79000 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 6 premises licensed for betting, 1 premise licensed as an amusement arcade and 90 premises consisting mainly of public houses and clubs with gaming machines. There are 26 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 3-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 6 July 2009 and 4 October 2009 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;
 - each premises in which gambling, gaming or betting is carried out in the District;
 - each premises in the District with a gaming machine;
- and by placing a copy of the policy on the Council's website.
- 1.7 The full list of comments made and the Council's consideration of them is available upon request to the Licensing Manager, Rochford District Council, 3–19 South Street, Rochford, Essex, SS4 1BW and may also be viewed on the Council's website at **<http://www.rochford.gov.uk>**
- 1.8 This Statement of Licensing Policy has effect from 31 January 2010 until 30 January 2013.
- 1.9 The Gambling Act 2005 requires the Licensing Authority to monitor, review and, where appropriate, amend its statement and then re-publish it. The Licensing Authority will consult with those groups mentioned in paragraph 1.6 prior to amending any part of the statement.

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 does not seek to define 'vulnerable persons', but it does for regulatory purposes assume that their group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to 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 section 13 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 3 years and must also be reviewed periodically and, where appropriate, amended.
- 2.22 The Licensing Authority will consult with those groups mentioned in paragraph 1.6 above prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future 3-year period.

Approval of Policy

- 2.23 This Statement of Licensing Policy was approved at a meeting of the full Council on 12 December 2006 and takes effect on 31 January 2007.
- 2.24 Any comments concerning this statement should be sent via e-mail to **licensing@rochford.gov.uk** or by letter to the address shown at paragraph 1.7 above.
- 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 **<http://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.

Disclaimer

- 2.28 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

- 2.29 The Gambling Act 2005 prescribes the Responsible Authorities that have statutory functions or are considered to be statutory consultees under the Act.
- 2.30 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 have 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.
- 2.31 The Licensing Authority designates the Essex Safeguarding Children's Board for this purpose.
- 2.32 Appendix D contains the contact details of all the Responsible Authorities under the Gambling Act 2005.

Interested Parties

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

- 2.35 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).
- 2.36 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.
- 2.37 District Councillors who are members of the Licensing Committee will not qualify to act in this way.
- 2.38 This Authority will generally require written evidence that a person is authorised to represent an Interested Party.
- 2.39 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).
- 2.40 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.
- 2.41 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

- 2.42 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.
- 2.43 In considering applications, the Council will particularly take into account evidence of measures, which might include:
- 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.
- 2.44 As regards to the protection of vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, help line numbers for organisations such as GAMCARE, will be considered.
- 2.45 The list above is neither mandatory nor exhaustive and is merely indicative of example measures.
- 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 G contains further information on premises licences, the application process and additional documentation the Licensing Authority requires in determining the application.

Door Supervisors

- 2.48 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.

Moral Objections/Unmet Demand

- 2.49 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

- 2.50 The question of where a premises 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

- 2.51 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.

- 2.52 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

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

Enforcement

- 2.54 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 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.
- 2.55 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk based inspection programme.
- 2.56 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.
- 2.57 The main enforcement and compliance role of the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licence and other permissions that it authorises. The Gambling Commission will be the enforcement body for the operator and Personal Licences. It is also worth noting that concerns about manufacturer, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 2.58 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.

- 2.59 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 Section, Rochford District Council, 3–19 South Street, Rochford, SS4 1BW, telephone 01702 318036/58 or by e-mail to: **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.
- 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.

- 3.8 A full premises licence cannot be obtained until the premises have been constructed. The Licensing Authority will not grant a licence unless the premises are ready to be used for gambling (but see also 'Provisional Statements').

Duplication with other Regulatory Regimes

- 3.9 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

- 3.10 Any conditions attached to premises 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.

- 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. Applicants will also be expected to offer their own suggestions as to the way in which the licensing objectives can be effectively met.

- 3.12 The Licensing Authority will not refuse an application for a premises licence where relevant objections can be dealt with by use of appropriate conditions.

- 3.13 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.

- 3.14 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

- 3.15 It is for the Licensing Authority to determine whether, as a question of fact and degree, premises are finished to a degree that they can be considered for a premises licence.
- 3.16 The Licensing Authority will generally require the building to be completed to enable the Authority to inspect it fully.
- 3.17 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

- 3.18 As provided by section 166 of the Gambling Act 2005, the Licensing Authority has resolved not to issue casino premise licences for the 3-year duration of this policy.
- 3.19 This matter will 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 to hold the BIIAB Level 2 National Certificate for Door Supervisors or an approved qualification accredited by the Department for Culture, Media & Sport.

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 casinos or bingo premises.

Betting Offices and Machines

- 3.27 The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or, where applicable, to a Casino 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 Unit.
- 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 paragraph 2.1 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 It will fall to this Licensing Authority to decide if the statutory requirements that the facilities for gambling amount to no more than an ancillary amusement at the fair is met where Category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs.
- 3.40 The Licensing Authority will also consider if the applicant falls within the statutory definition of a travelling fair.

- 3.41 It has been 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 2.42–2.44 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:
- CRB 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 H 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 2 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 H 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 2.42–2.45 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:
- CRB 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.
- 4.28 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 H 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 3 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 3 gaming machines only, of category B, 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 3 gaming machines only, of category B, 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 H 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 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.
- 5.3 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.
- 5.4 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.
- 5.5 Appendix G contains further information on these notices

Occasional Use Notices (OUN's)

- 5.6 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.
- 5.7 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.
- 5.8 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.
- 5.9 The Licensing Authority will, however, consider the definition of a "track" and whether the applicant is permitted to avail him/herself of the notice.
- 5.10 Appendix G 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.
- A Small Society Lottery is an exempt lottery and must be registered with the Licensing Authority.
- 6.2 Local authorities may promote a lottery for the benefit of the community under an operating licence issued by the Gambling Commission.
- 6.3 Appendix K contains further information concerning lotteries, generally, and requirements for registration.



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APPENDIX B**CONSULTEES**

All holders of premise's licences under Licensing Act 2003	All holders of betting office licences
All holders of permits for Amusement With Prizes machines	Association of British Bookmakers
British Beer & Pub Association	British Casino Association
Capitol Coins Limited (suppliers of gaming machines)	Castle Point & Rochford PCT
Churches Together	Citizens Advice Bureau
Claremont Automatics Limited (suppliers of gaming machines)	Club & Institute Union
Coral Group	Essex County Fire & Rescue Service
Essex County Libraries within the district	Essex Leisure Limited
Essex Police	Gamblers Anonymous
Gambling Commission	GamCare
GamesTec Leisure Limited (suppliers of gaming machines)	Head of Child Protection, ECC
HM Customs & Excise	Manager of Environmental Protection Unit, Rochford District Council
Head of Planning and Transportation Services, Rochford District Council	Ladbrokes Group
Leisure Link Limited	Parish Councils within the district
Responsibility in Gambling Trust	The Salvation Army
William Hill Limited	

APPENDIX C

Peter Nellies
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licensing@rochford.gov.uk

Dear Peter

Salvation Army response to Rochford District Council on their Draft Revised Gambling Act Statement of Principles

The Salvation Army is an international Christian church working in 118 countries worldwide. As a registered charity, The Salvation Army demonstrates its Christian principles through social action and is one of the largest, most diverse providers of social welfare in the world.

Tel: (020) 7367 4557/8

The Salvation Army has worked closely on the issue of Gambling Policy with the Department of Culture Media and Sport and subsequently with the Gambling Commission over several years.

The Salvation Army is particularly concerned that the current trend towards the societal normalisation of gambling could lead to an increase in the number of people experiencing the highly damaging consequences of problem or pathological gambling, either directly or indirectly.

The Salvation Army has a long history of working with those whose lives are damaged by addictions, most notably to alcohol and drugs, and a number of those with whom we work also cite gambling among their addictions.

The Salvation Army appreciates the invitation to respond to this consultation process and commends the Council for the general form and content of this Statement of Principles. We have notified other licensing authorities that Rochford Council is an example of good practice.

Our detailed comments are:

- We commend the general principle on the protection of children and the vulnerable (2.7). We are pleased that the Council state their duty as one of preventing children from gambling. The Salvation Army are concerned that gambling advertising can be attractive to children.



United Kingdom
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of Ireland

Public Affairs
Team

Department 4728

- We warmly welcome the wide interpretation of 'business interest' under Interested Parties (2.34.) The Salvation Army has commended Councils who include local charities, faith groups, community groups and medical and health providers in their list of Interested Parties. These groups often have to bear the social cost of problem gambling.
- We welcome the attention paid under 2.43 to the design and layout of premises. Separation of licensed premises is crucial to ensure that 'drift' does not occur and customers make a 'dedicated trip to gamble'. Ambient gambling is encouraged by insufficient delineation between gambling premises and other forms of entertainment.
- The risks associated with gambling are increased with 'ambient' gambling. If someone does choose to gamble making a dedicated trip to gamble with a predefined budget and timescale offers greater opportunities for self control. Casual or ambient gambling arrived at through 'drift' does not. We therefore welcome the Council's policy on drift under 3.5.
- We commend measures that help ensure a separation of premises so that people do not 'drift' into a gambling area from another area that is not. There should be an explicit goal to separate gambling areas and avoid 'drift' toward gambling activity for example inside an entertainment complex.
- We welcome stringent door controls and would recommend that door supervisors are made compulsory at gambling venues and are CRB checked. We warmly welcome CRB checks for staff but would ask this be made a requirement of employment at gambling premises.
- The Salvation Army encourages all Councils to consider insisting on CRB checks on all gambling premises staff as well as specialist training on dealing with underage children and vulnerable persons for both FEC's and AGC's. We again commend the Council for suggesting (under 4.6) staff training to deal with underage or truant children. We recommend that this kind of training be made compulsory.
- We have commended Councils who encourage gambling operators to fund debt-counselling services.
- We commend the Council for expecting that staff are trained to have a full understanding of the maximum stakes and prizes.
- The Salvation Army recommends that ATMs should not be sited inside licensed premises. If the Council does allow this to occur, our advice would be that ATMs would be sited in designated 'non gambling areas' or 'chill-out zones'. This would encourage breaks in play when gambling and a reminder of how much is being spent. Both of these would act as protection against compulsive patterns of behaviour.
- The Salvation Army believes that gambling premises should not be sited close to schools or other establishments attended by children or vulnerable adults. We also believe that residential areas that have a high number of children ought to be avoided.

- We note that the Council passed a 'no casino' veto under Section 166 of the Act. The Salvation Army supports this veto. We are confident that the social costs of casinos outweigh claims of regenerative benefit.

Thank you for taking our response into account. Please do not hesitate to contact me should you have any comment or queries, or if you require any further input from The Salvation Army.

Yours sincerely

Gareth Wallace
Assistant Public Affairs Officer