

EALING COUNCIL'S STATEMENT OF PRINCIPLES

Under the Gambling Act 2005

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Part A

1. Licensing Objectives

In exercising most of their functions under the Gambling Act 2005 “the Act” the licensing authority must have regard to the licensing objectives, which are:

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

It should be noted that the Gambling commission has stated, “ The requirement in relation to children is explicitly to protect them from being harmed or exploited from gambling”

This licensing authority is aware that, as per section 153 of the Act, in making decisions about premises licenses and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority’s statement of licensing policy

2. Introduction

Borough Profile

Ealing is situated at the heart of six Greater London boroughs, collectively known as West London. It borders the Boroughs of Brent and Harrow to the north, the Borough of Hammersmith & Fulham to the east, Hounslow to the south and Hillingdon to the west. Ealing covers 55 square kilometres. Ealing has seven distinct town centres known as Ealing, Hanwell, Acton, Southall, Northolt, Greenford and Perivale.

Ealing’s population is currently estimated at 305,300¹. It remains the third largest of London’s 32 boroughs in terms of population and, like much of London it is densely populated and busy.

¹ 2008, Office for National Statistics (ONS): 2007 Mid year estimate

Map Of Ealing Showing The 23 Wards Throughout The Borough



Ealing has good transport networks with Ealing town centre in particular being a 'transport hub' for West London, with excellent access to central London. Not only is the borough well-served by the London Underground with the District, Piccadilly and Central lines, it also provides direct access to Reading, Slough, Paddington and Heathrow by train. In fact, Ealing sits within the 'Heathrow corridor', just 8 miles away from Heathrow. The Borough also provides good access by road, including the M40 to Birmingham or Oxford, and the M4 to Bristol and Cardiff. The North Circular (London's Inner ring road: the A406) runs from the south to the north of Ealing Borough, and links travellers to the M4 and M40 as well as the A1 and M1.

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

Ealing Council consulted widely upon this statement before finalising and publishing. A list of those consulted is available as supplementary information from the licensing team.

The Gambling Act requires that the following persons are consulted by licensing authorities:

- The chief officer of police
- Persons who represent the interests of persons carrying on gambling businesses
- Persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act

List of persons this authority consulted

- The Police Service
- Organisations named as responsible authorities in the Act
- All existing licensed premises under the Gambling Act 2005
- All 'on' licensed premises under the Licensing Act 2003
- All other interested businesses
- Other Neighbouring Councils
- Community organisations and Faith groups
- Ward Councillors
- Residents and Trade associations
- Street Watchers

Our consultation took place between 13th July 2009 to the 5th October 2009 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at <http://www.berr.gov.uk/files/file47158.pdf>. The full list of comments made and the consideration by the Council of those comments is available by request to Ealing Council Regulatory Services, Licensing, Perceval House, 14-16 Uxbridge Road, London W5 2HL. E-mail: licensing@ealing.gov.uk Telephone 020 8825 6655.

The policy was approved at a meeting of the full Council on 15th December 2009 and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

3. Declaration

In preparing this statement of principles the licensing authority declares that it has had regard to the licensing objectives of the Act, the Guidance issued by the Licensing commission, and any responses from those consulted on the statement.

4. Responsible Authorities

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

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

The Council has designated the Local Safeguarding Children Board as the competent authority dealing with all matters relating to the protection of children from harm. The Board comprises the Council's children's service and statutory and voluntary partners, and will have jurisdiction throughout the Borough. The contact details of the Responsible Authorities under the Gambling Act 2005 are attached in Appendix 3.

5. Interested Parties

Interested parties can make representations concerning an application, or apply for a review of an existing. These parties are defined in the Gambling Act 2005 as follows;

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

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

Each case will be judged on its merits. This authority will not apply a rigid rule to its decision-making. It will consider the examples of consideration provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups, and medical practices.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants association as interested parties. This authority will not however generally view these bodies as interested parties unless they have a member

who can be classified as an interested party under the provisions of the Act i.e. lives sufficiently close to the premises to be likely affected by the activities being applied for.

Any association, union or trade group may be requested by the licensing authority to furnish proof of their status as an organisation by providing evidence as to management structure, funding, extent of membership, statement of principles, rules book, minutes of meetings, etc.

A Member of Parliament or a Ward Councillor can be an interested party. 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. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons is deemed sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing authority.

Ward Councillors are also governed by the protocol for Sub-Committee Hearings and by the Members Code of Conduct for Hearings. These establish under what circumstances Members are entitled to be heard at Sub-Committee hearings.

In general the licensing authority will take into account amongst other things, the size of the business, the nature of the activities taking place, the distance of the premises from the objector and the specific interest of the objector. These matters are not exhaustive and are examples of some considerations only.

6. Exchange of Information

The licensing authority is required to include in its statement the principle to be applied in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, the functions under section 350 of the Act with respect to the exchange of information between it and other persons listed in schedule 6 to the Act.

In respect of exchange of information the principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is

published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

7. Enforcement

The licensing authority is required to state the principles to be applied by the licensing authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to licensing authorities and will endeavour to be:

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

As per the Gambling Commission Guidance to Local Authorities this licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

The licensing authority will seek to address complaints about licensed premises or activities, relating to the licensing objectives. Other types of complaint should be directed to the appropriate enforcing authority eg Council's Noise and Nuisance Team for any concerns of excess noise emanating from the premises. Complainants are however encouraged to approach business proprietors at first instance to raise concerns and seek local resolutions. The Council's Licensing Team will also assist either party in facilitating mediation.

Licensing is not the primary mechanism for controlling anti social behaviour away from premises and beyond the direct control of operators. However, it remains a key aspect of such control and licensing is part of the holistic approach to the management of the evening and night- time economy in town and city centres.

The licensing authority supports a partnership approach with other regulatory bodies in respect of enforcing the provisions of the Act. This will be reflected in the nature and extent of the working arrangements agreed between those bodies and the licensing authority, and on the need for the efficient deployment of staff and avoidance of duplication of role. In particular, special arrangements will be maintained with the Police to achieve those ends.

This licensing authority has adopted and implemented a risk based inspection programme, based on

- The Licensing objectives
- Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at part 36
- The Principles set out in this Statement of licensing policy

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

In considering enforcement action the licensing authority will bear in mind the Human Rights Act 1998 whose provisions include:

- Article 1, Protocol 1 - the right to peaceful enjoyment of possessions. (A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest.)
- Article 6 – the right to a fair hearing
- Article 8 – the right to respect for private and family life. (Removal or restriction of a licence may affect a person’s private life.)
- Article 10 – right to freedom of expression

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

Bearing in mind the principles of transparency, this licensing authority’s enforcement policy is available on request to the licensing department.

8. Licensing authority functions

The Licensing Authorities are required under the Act to

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

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

Part B Premises Licences

1. General Principles

Premises licenses will be subject to the requirements set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

When making decisions on applications regard will be had to any relevant guidance or code of practice issued by the Gambling Commission; reasonably consistent with the licensing objectives and in accordance with the authority's statement of policy.

It is appreciated that as per the Gambling commission's guidance' moral objections to gambling are not a valid reason to reject applications for premises licences' (except with regard to any 'no casino' resolution.)

Definition of “premises”

In the Act “premises” is defined as including “any place”(S353). Section 152 prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safe guards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

Particular note will be taken of the Gambling Commission Guidance when considering applications for multiple licenses for a building and those relating to a discrete part of a building used for other (non gambling) purposes. There should be specific issues that the authority should consider, for example, whether children can gain access, compatibility of the two establishments and ability to comply with requirements of the Act.

The Guidance gives a list of factors, which the authority should be aware of

- Do the premises have a separate registration for business rates?
- Is premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public highway?
- Can the premises only be accessed from any other gambling premises?

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

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

Location

The licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. As per the Gambling

Commission's guidance particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. For example, close scrutiny will be applied where a gambling premises is located close to a school or a treatment centre for gambling addiction. In any event, each case will be decided on its merits. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how potential concerns can be overcome.

Duplication with other regulatory regimes

The licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. Such considerations are subject to different legal and administrative systems. It will though, listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise. The grant of a gambling premises licence does not preclude any appropriate enforcement action arising from planning or building legislation.

Licensing Objectives

Premises licenses granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to licensing authorities and some comments are made below.

Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime"

The licensing authority is aware that the Gambling Commission takes a lead role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

The Licensing Authority will construe "disorder" as activity that is more serious and disruptive than mere nuisance. This will be a matter of fact and extent in each case.

Ensuring that gambling is conducted in a fair and open way

This licensing authority has noted that the Gambling Commission state that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licenses. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section – see page

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

This licensing authority has noted the Gambling Commissions Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children.)

The licensing authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

The licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

The Licensing Authority will consider whether in any instance, specific measures will be needed to address such issues in any particular type of gaming premises. An example would be adequate supervision of gaming machines at licensed Family Entertainment Centres. These considerations will be particularly relevant on some tracks (where children will be permitted in the betting areas on race-days) and in a regional casino, where children will be permitted in non-gambling areas. Adherence to any Code of Practice relating to casinos issued by the Commission under S.176 Gambling Act 2005 will be a condition of the premises licence.

In the absence of a legal definition for “vulnerable persons” the licensing authority will assume the group to include people who gamble more than they want to, those who gamble beyond their means and people who cannot make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. This licensing authority will consider this licensing objective on a case-by-case basis.

Where required, conditions will be proportionate and:

- 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.

Conditions

Any conditions attached to licenses will be proportionate and will be:

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

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

The licensing authority will also consider specific measures, which may be required for buildings, which are subject to multiple premises licenses. Such measures may include the supervision of entrances; segregation of gambling from non gambling areas frequented by children; and the supervision of gaming machines in non adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission Guidance.

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

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

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

It is noted that there are conditions, which the Licensing Authority cannot attach to premises licences, which are:

- Where it makes it impossible to comply with an operating licence condition

- Where it relates to gaming machine categories, numbers, or method of operation;
- Which provide that membership of a club or body be required
- Which relate to stakes, fees, winning or prizes.

2. Adult Gaming Centres

The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may covers issues such as:

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

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

The Licensing Authority will also seek to protect vulnerable persons by considering the use of self-barring schemes; the provision of leaflets and other advisory information/ help line numbers for organisations such as GamCare.

3. (Licensed) Family Entertainment Centres

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

- CCTV
- Supervision of entrances/ machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Provision of information leaflets/helpline numbers for organisations such as GamCare

- Measures/training for staff on how to deal with suspected truant school children on the premises.

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

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

4. Casinos

The Licensing Authority resolved on the 15th December 2009 not to issue casino premises licenses pursuant to section 166 of the Act.

Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

5. Bingo

This licensing authority notes the Gambling Commissions Guidance at paragraph 18.4 and will need to be satisfied that bingo can be played in any bingo premises for which they issue a premises licence. This is particularly relevant where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licenses, for that or those excluded areas.

The Licensing Authority recognise that where children are allowed access to premises offering bingo, they must not participate in any bingo and if category B or C machines are made available for use these must be separated form areas where children and young people are allowed.

Where category C or above machines are available in premises to which children are admitted the Licensing Authority will ensure that:

- There is complete physical separation of the areas containing higher category machines- to be accessed via a designated entrance
- Adult only access to such areas
- Appropriate area supervision
- Machines to be fully visible to the licence holder's staff

- Signage indicating exclusion of under 18s to be prominently displayed at the entrance and inside the area.

6. Betting Premises

Betting premises can provide a limited number of gaming machines as well as some betting machines. The Licensing Authority will not normally use its powers to restrict the number of betting machines unless there are good reasons to do so. If that is the case, the Licensing Authority will, as per the Gambling Commission Guidance, take into account amongst other things when considering the number/nature/circumstances of betting machines an operator wants to offer.

- The size of the premises
- The number of counter positions available for person-to-person transactions and
- The ability of staff to monitor the use of machines by children and young persons (illegal) or by vulnerable persons,

7. Tracks

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

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

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

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

- Provision of leaflets/helpline numbers for organisations such as GamCare

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

In determining an application for approval of on-course betting facilities, the Licensing Authority expects the applicant to:

- Provide a detailed plan of the exact location(s) on the site where betting is to take place (including temporary structures)
- In the case of dog tracks and horse racecourses to indicate the location of fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facility (including gaming machines)
- Indicate all measures for administering betting, including whether specified areas have been set-aside for such purposes.
- Indicate all measures that will be adopted to prevent children and young persons from accessing any gaming machines other than category D that may be present

The Licensing Authority will expect track operators to take responsibility for prominently displaying the rules near all betting areas and/or that other measures are used to make them available to the public. There is also an expectation that track operators will have a demonstrable monitoring system to ensure that only holders of valid betting operators licences can access the site.

8. Travelling Fairs

Travelling Fairs do not require any permit to provide gaming machines but must comply with the legal requirements on the way the machine operates. An unlimited number of category D machines and/or equal chance prize gaming can be provided without a permit but gambling facilities must not amount to more than an ancillary amusement at the fair.

The Licensing Authority will judge whether or not the travelling fair meets the statutory definition. The Licensing Authority will liaise with neighbouring authorities under circumstances where there are joint concerns or where boundary issues are involved.

Vessels and Vehicles

The Licensing Authority will have jurisdiction over gambling conducted on vessels in all inland waterways at permanent moorings.

In the case of a vessel seeking a premises licence the Licensing Authority will restrict its interests to the promotion of the Licensing Objectives. Operational

safety will be the subject of certification by the relevant authority eg Navigation Authority. The relevant Licensing Authority for pleasure boats is the one having jurisdiction for the area in which a vessel is usually moored or berthed.

9. Provisional statements

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

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

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

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

10. Reviews

Requests for review of a premises licence can be made by Interested Parties, or their appointed representatives, or by Responsible Authorities, however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request is relevant to issues listed below as well as to consideration as to whether the request is frivolous, vexatious or irrelevant, or is substantially the same as previous representations or requests for review.

- 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 gambling Licensing Objectives
- In accordance with the authority's Statement of Licensing Policy for Gambling

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

Part C

Permits / Temporary & Occasional Use Notices Permits

The Act introduces a range of permits for gambling, which are granted by licensing authorities. Forms of authorisations other than premises licenses are as follows:

- Unlicensed Family Entertainment Centres
- Gaming Machines on alcohol-licensed premises
- Club Gaming Machines
- Club Gaming
- Prize Gaming

The licensing authority may only grant or reject an application for a permit. No conditions may be attached to a permit

1. Unlicensed Family Entertainment Centres gaming machine permits (Statement of Principles on Permits – Schedule 10 Para 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use. Any number of category D machines can be provided under this permit. Restrictions imposed under the requirements of other legislation eg fire safety is not a matter for the Licensing Authority.

Applicants will be expected to demonstrate:

- A full understanding of the maximum permissible stakes and prizes
- That the applicant has no relevant convictions (see Schedule 7 of the Act)
- That staff are fully trained in understanding maximum stake and prizes

The Licensing Authority expects the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include Criminal Records Bureau checks for staff, and training for staff on dealing with very young unsupervised children or dealing with children causing perceived problems on or around the premises. The authority is

not limited to these considerations and will determine each application on its merit.

With regard to renewals of these permits, a Licensing Authority may only refuse an application for renewal on grounds that:

- A local authority officer has been refused access to the premises without reasonable excuse or,
- Renewal would not be reasonably consistent with pursuit of the Licensing Objectives.

2. (Alcohol) Licensed Premises Gaming machines permits (schedule 13 paragraph 4 (1))

Section 282 of the Act provides an automatic entitlement to the holder of an on-licensed premises, to make available two gaming machines (of category C or D) for use in alcohol licensed premises. Any provision of a code of practice made under S.24 of the Act concerning the location and operation of a machine, must however be complied with.

The Licensing Authority can however remove the automatic authorisation by virtue of an order (under S.284) if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- Gaming has taken place on the premises that breaches a condition of S.282
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises

The licensing authority will when considering an application for a permit for more than two machines, have regard to the licensing objectives, relevant guidance issued by the Gambling Commission and such matters as the licensing authority deems relevant. Each application will be judged on its merits but measures to protect children and vulnerable persons from harm or exploitation will be paramount. For example, measures to prevent access to adult only gaming machines, might include siting them where they can be readily observed from the bar, and providing good warning signs or notices.

Should the holder of an alcohol licensed premises gaming permit apply for a premises licence for their non-alcohol areas, such application would be dealt with as an Adult Entertainment Centre premises licence.

3. Prize Gaming Permits (statement of principles on permits – schedule 14 paragraph 8 (3))

The licensing authority will expect the applicant to set out the types of gaming on offer and be able to demonstrate:

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

The licensing authority in considering an application for a permit does not need (but may choose) to have regard to the licensing objectives but in any event will have regard to any guidance issued by the Gambling Commission. It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but the licensing authority cannot attach conditions. The conditions in the Act are;

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

The licensing authority will not refuse an application unless the applicant has been given notification of the intention to refuse with accompanying reasons, and given them an opportunity to make representations orally or in writing or both.

Statement of Principles

Each application will be determined on its merits, but the licensing authority will expect the applicant to demonstrate the measures to be taken to protect children and vulnerable persons from being harmed in light of the types of gaming being offered.

The grounds for decision making as regards renewals are the same as for initial applications.

4. Club Gaming and Club Gaming Permits

Members Clubs and Miners' Welfare Institutes (but not commercial clubs) may apply for a:

- Club Gaming Permit – to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance
- Club Gaming Machines Permit – as per gaming machines in part a) above.

Before granting a permit the licensing authority must be satisfied that applicants fulfil the statutory criteria for members clubs contained in sections 266 and 267 Act. A permit may be granted provided the majority of members are over 18.

The Licensing Authority may only refuse an application on the grounds that:

- The applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the permit
- The applicants' premises are used wholly or mainly by children and/or young persons;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous 10 years; or
- An objection has been lodged by the Commission or the police

The Licensing Authority recognises that a "fast-track" procedure applies to premises already holding a Club Premises Certificate under the Licensing Act 2003. Under such circumstances the only grounds on which to refuse a permit is as follows:

- That the club is established primarily for gaming, other than gaming prescribed under Schedule 12;
- That in addition to the prescribed gaming, other gaming facilities exist; or
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The procedure for renewal is the same as for an application.

5. Temporary Use Notices (TUN)

This allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that may be suitable for a TUN, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

A TUN may only be granted to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The licensing authority will give careful consideration to applications, which involve what appears to be a "set of premises" as opposed to an individual premise. This will be a matter of fact as to how individual buildings may be subdivided, occupied and managed and the applicant must provide detailed Information as to their use and interest in a particular premises or part thereof. The licensing authority can issue a TUN in respect of "any part" of a set of

premises but there is a statutory maximum of 21 days applying to a set of premises, which must not be exceeded in a 12-month period.

This new proviso is to try and ensure that regular gambling does not take place in a “set of premises” via temporary permission status, by deriving more than the 21-day maximum period, which applies to a single premise. Guidance cites a large exhibition centre as possibly falling within the definition of a set of premises.

If no objections are made within 14 days of the notice date, the licensing authority will endorse the notice as valid and return it to the applicant.

6. Occasional Use Notices

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

7. Registration of Small Society Lotteries

A lottery is unlawful unless it is licensed by the Gambling Commission, is part of a National Lottery or is an exempt lottery by virtue of their proceeds being below a specified level. In such latter instance a society must register with the licensing authority.

A society must be non-commercial and will be deemed so if it is established and conducted:

- For charitable purposes;
- For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than that of private gain.

NB A lottery is “small” if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of sale tickets in a calendar year is £250,000 or less.

Exempt lotteries include small society lotteries and:

- Incidental non-commercial lotteries-promoted wholly for purposes other than private gain, and which are incidental to non-commercial events
- Eg charity fund raising events.
- Private lotteries which may be:
 - Private society lotteries
 - Work lotteries
 - Residents’ lotteries
 - Customer lotteries

The licensing authority will refuse applications for registration if in the previous 5 years either an operating licence made by the applicant for registration has been

revoked, or an application for an operating licence made by the applicant has been refused.

The licensing authority may refuse an application for registration if they think that:

- The applicant is not a non-commercial society
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- Information relating to the application is false or misleading.

The licensing authority expects applicants to set out the purposes for which the society is established and to declare themselves a bona fide non-commercial society with no relevant convictions. The licensing authority reserves the right, notwithstanding any declaration made, to make further enquiries about an applicant, deemed necessary in light of known individual circumstances or facts.

If the licensing authority is minded to refuse registration or revoke the registered status of a society, it will afford the society concerned the opportunity to make a representation, having provided the society with reasons and evidence to that effect.

Societies must take appropriate steps when employing external lottery managers to ensure that the individual holds an operators licence issued by the Commission. Licensing authorities will require assurance on this point.

Appendix 1 - Useful Contacts

Ealing Council Regulatory Services, Licensing, Perceval House, 14-16 Uxbridge Road, London W5 2HL.

E-mail: licensing@ealing.gov.uk Tel 020 8825 6655
Internet www.ealing.gov.uk/services/environment/licensing/

Gambling Commission

Internet www.gamblingcommission.gov.uk
Email info@gamblingcommission.gov.uk

Department for Culture Media and Sport (DCMS)

Internet www.culture.gov.uk Tel: 020 7211 6200
Email enquiries@culture.gov.uk

Local Authority Coordinators for Regulatory Services (LACORS)

Internet www.lacors.gov.uk
Tel: 020 7665 3888

Office of Public Sector Information

Internet www.opsi.gov.uk

National Association for Gambling Care (GamCare) Charity Reg. No 3297914

Email info@gamcare.org.uk
Tel: 020 7378 5200
Helpline: 0845 6000 133

Appendix 2 - Glossary of Terms

Betting - means making or accepting a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring; or whether anything is or is not true

Casino - is an arrangement whereby people are given an opportunity to participate in one or more casino games

Casino game - Is a game of chance which is not equal chance gaming

Child - an individual who is less than 16 years old

Default condition - Means a specified condition provided by regulations to be attached to a licence, unless excluded by the licensing authority

Gambling - Includes gaming, betting and participating in a lottery

Interested party - is a person who is entitled to make a representation if they live sufficiently close to the premises concerned and are likely to be impacted by those activities; or has business interests that might be affected by the authorised activities; or represents persons in either of these two groups.

Mandatory condition - Means a specified condition provided by regulations to be attached to a licence

Relevant representation - it must relate to licensing objectives, or raise an issue within the licensing policy statement, or an issue within gambling commission guidance or codes of practice. It must not be frivolous, vexatious or repetitive in nature and should relate to the premises in question.

Responsible authority - Responsible Authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to licensing objectives. See appendix X for list.

Travelling fair - “wholly or principally” providing amusements and being on a site used for fairs no longer than 27 days per calendar year.

Young Person - An individual who is not a child but who is less than 18 years old

Appendix 3 - Responsible Authorities

Responsible Authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.

Ealing Licensing Authority
c/o Service Manager Licensing, Regulatory
Services Ealing Council
4th Floor Perceval House
14-16 Uxbridge Road
Ealing W5 2HL
Tel: 020 8825 6655
e-mail: licensing@ealing.gov.uk
web: www.ealing.gov.uk
Fax: 020 8825 6077

**Authority for Pollution & Harm to
Human Health**
C/o Service Manager Pollution,
Regulatory Services, Ealing Council
4th Floor Perceval House
Ealing W5 2HL
Tel: 020 8825 8111
e-mail: pollutioncontrol@ealing.gov.uk
web: www.ealing.gov.uk
Fax: 020 8825 6077

Fire and Rescue Authority
 Ealing Fire Safety Officer
 1 Marble Close
 Acton
 London W3 8HD
 Tel: 020 7587 2720
 Fax: 020 7587 2745
 e-mail: ealinggroup@london-fire.gov.uk

Chief Officer of Police
 c/o Licensing Office
 Ealing Police Station
 67-69 Uxbridge Road
 Ealing W5 5SJ
 Tel: 020 8246 1253
 Fax: 020 8246 1264

Planning Authority
 Head of Planning & Surveying Services
 London Borough of Ealing
 4th Floor Perceval House
 14-16 Uxbridge Road
 Ealing W5 2HL
 Tel: 020 8825 6600
 e-mail: planning@ealing.gov.uk

The Gambling Commission
 Victoria Square House
 Victoria Square
 Birmingham B2 4BP
 e-mail:
info@gamblingcommission.gov.uk

HM Revenue & Customs
 Greenock Accounting Centre
 Custom House
 Greenock PA15 1EQ

Local Safeguarding Children Board
 CP Admin
 Acton Town Hall
 Winchester Street
 Acton W3 6NE
 Tel: 020 8825 8930
 E-mail: cp@ealing.gov.uk

- Authorities for Vessels**
- Navigation Authority
 - The Enforcement Agency
 - British Waterways Board
 - Secretary of State

Appendix 4 - summary of licensing authority delegations

Matter to be dealt with	Full Council	Sub committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (When appropriate)			X
Applications for a new premises licences or a variation to an existing one		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application of a provisional statement		Where representations have been received and not withdrawn	Where no representations received/

			representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of a club gaming / club machines permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice		X	
Decision to give a counter notice to a temporary use notice		X	