

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

CABINET – 23 NOVEMBER 2006

REPORT BY THE EXECUTIVE DIRECTOR FOR TRANSPORT, ENVIRONMENT
AND LEISURE SERVICES

STATEMENT OF GAMBLING POLICY

Cabinet is asked to note the responses and comments made during the public consultation undertaken in connection with the draft Statement of Gambling Policy, agree the amendments and to recommend a revised version to the next meeting of the Council.

FOR DECISION

1. BACKGROUND

- 1.1 The Gambling Act 2005 received Royal Assent in April 2005 and applications under the Act will commence on the 30th April 2007. The Act transfers responsibility for licensing **premises** used for the purposes of gambling from the Magistrates Court to the Local Authority. It also transfers responsibility for granting **Operators Licences** and **Personal Licences** from the Gaming Board to the Gambling Commission.
- 1.2 The Local Authority, as the Licensing Authority, is required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
 - Issue *Provisional Statements*
 - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue *Club Machine Permits* to *Commercial Clubs*
 - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines

- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and Endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section below on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions
- 1.3 In April 2006 the newly formed Gambling Commission published 132 pages of Guidance for Licensing Authorities relating to the Gambling Act.
- 1.4 A requirement of the Act is that Licensing Authorities draft, consult on and publish a Statement of Gambling Policy, taking into account the Gambling Commission's Guidance, setting out the policies they will generally apply when carrying out their licensing functions.
- 1.5 A consultation exercise regarding the draft Statement of Gambling Policy has now been concluded. Prior to the release of the draft Policy it was widely circulated and comments from Members of the Council were included in it. Residents, businesses and other interested parties have had the opportunity to consider the draft Policy and some have chosen to comment. Details of these comments, responses to them and the revised Statement of Gambling Policy are attached as appendices to this report.
- 1.6 The Secretary of State has, by Order, named the 03 January 2007 as the date by which these policies must be published. The Council released a draft Statement of Gambling Policy for public consultation between 07 August 2006 and 29 October 2006. The Policy Statement was placed on the Royal Borough's website and was also sent to a number of organisations and individuals as listed in Appendix A to this report.

2. SUMMARY OF RESPONSES

- 2.1 A total of three responses were received from the Gambling trade during the consultation period. Six responses were received from residents' associations and individual residents and two responses were received from Royal Borough Councillors.

2.2 The comments received from both the trade and residents associations, residents and the Members of the Council are relatively minor. Details of these comments, the officers' responses and any amendments made to the policies after taking account of the comments are attached as Appendix B to this report.

3. AMENDMENTS

3.1 The responses to the consultation exercise have been such that there has not been a need to make any major changes to the policy document and the main principles have been retained.

3.2 A copy of the revised version of the Statement of Gambling Policy is attached to this report as Appendix C.

4.0 LEGAL IMPLICATIONS

4.1 The Legal implications are set out in the body of the report and included in Appendix B.

5.0 PERSONNEL IMPLICATIONS

5.1 The new responsibilities placed on the Council will require additional administrative and possibly enforcement work. However, account was taken of this in the restructuring of the Licensing team earlier this year. Contested applications will need to be determined by the Licensing Committee who will take on the responsibility of dealing with these applications.

6.0 EQUALITIES IMPLICATIONS

6.1 There are no equalities implications.

7.0 RECOMMENDATIONS

7.1 The Cabinet is recommended to:

- (i) Note and approve the consultation process used in the preparation of the draft statement;
- (ii) Note both the comments and responses in Appendix B;
- (iii) Agree the amendments to the draft Statement of Gambling Policy, attached as Appendix C; and
- (iv) Recommend the amended draft Statement of Gambling Policy at Appendix C to the Council.

FOR DECISION

MICHAEL STROUD

EXECUTIVE DIRECTOR FOR TRANSPORT, ENVIRONMENT AND LEISURE
SERVICES

Background Papers:

The Gambling Act 2005

The Gambling Commission's Guidance to Licensing Authorities

Officer Contact:

Patrick Crowley, Licensing Manager, 020 7361 5601

Appendix A

The following individuals and organisations were sent a copy of the Royal Borough of Kensington and Chelsea's Draft Statement of Gambling Policy and invited to comment on the contents.

NAME	ADDRESS	DATE
RBKC Website		07/08/06
All Members of the Council	Royal Borough of Kensington and Chelsea	10/08/06
RBKC Residents' Associations		08/08/06
Joelson Wilson Solicitors	30 Portland Place London W1B 1LZ	04/08/06
Bii	Wessex House 80 Park Street Camberley GU15 3PT	10/08/06
BACTA	Alders House 133 Aldersgate Street London EC1A 4JA	10/08/06
BISL	17a Chartfield Road London SW15 6DX	10/08/06
Casino Operators Association of the UK	PO Box 55 Thorncombe Chard TA20 4YT	10/08/06
British Casino Association	38 Grosvenor Gardens London SW1W 0EB	10/08/06
Angela Ruggeri Association of British Bookmakers	Regency House 1-4 Warwick Street London W1B 5LT	10/08/06
Rita King BBPA	Market Towers 1 Nine Elms Lane London SW8 5NQ	10/08/06
The Bingo Association	Lexham House 75 High Street North Dunstable Beds LU6 1JF	10/08/06
Zealcastle Ltd	Grosvenor Park Tower Casino Sheraton Park Tower 101 Knightsbridge SW1X 7RQ	10/08/06
Grosvenor Casinos Ltd	Basement 4-18 Harrington Gds London SW7 4LF	10/08/06
Coastbright Ltd	Maxims Casino Club 1a Palace Gate London W8 5LS	10/08/06
Stanley Casinos Ltd	Cromwell Mint Casino 43-45 Cromwell Road London SW7 2EF	10/08/06
Gamcare	2-3 Baden Place Crosby Row	10/08/06

	London SE1 1YW	
Paddy Power	500 King's Road, London SW10 0LE	10/08/06
Paddy Power	Crowne House (5 th Floor) Southwark Street London SE1 1UN (Sarah Gibson)	18/08/06
Coral	Ground Floor 145 Ladbroke Grove London W10 6HJ	10/08/06
	327 Portobello Road London W10 5SA	10/08/06
	6 Blenheim Crescent London W11 1NN	10/08/06
I. Morris	61 Marloes Road London W8 6LE	10/08/06
The Tote	Westgate House Tote Park Chapel Lane Wigan WN3 4HS	10/08/06
Ladbrokes Plc	Imperial House Imperial Drive Rayners Lane Harrow HA2 7JW	10/08/06
William Hill	3 St. John's Centre 31 Merrion Street Leeds LS2 8JF	10/08/06

**THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
DRAFT STATEMENT OF LICENSING POLICY
RESPONSES TO CONSULTATION**

Name of Consultee	Address of Consultee	Issues Addressed	Comments	Policy Amended Yes/No
The Association of British Bookmakers	Regency House 1-4 Warwick Street London W1B 5LT	1) Insertion of text in the Policy Statement regarding the requirement for Door Supervisors at betting shops only where there is a clear need for them.	1) New paragraph 9.17 inserted.	Yes
		2) Insertion of text regarding limiting numbers of betting machines in betting offices.	2) Paragraph 9.22 amended.	Yes
		3) Request that the Licensing Authority encourage or at least look sympathetically on applications to re-	3) New paragraph 9.23 inserted stating that the Authority will look sympathetically at such applications	Yes

		site betting offices in the same locality and extend premises to enhance the quality of facilities for the public who may wish to use them.	but only where there are no concerns that the Licensing Objectives will be affected.	
		4) Request that text is inserted requesting operators to identify a senior officer within the company who will be the point of contact for the Licensing Authority.	4) New paragraph 9.24 inserted.	Yes
		5) Use of the word "promote" in paragraph 1.2 is not consistent with the wording of the Gambling Act 2005.	5) Paragraph 1.2 amended accordingly.	Yes
GAMCARE	2/3 Baden Place Crosby Row London SE1 1YW	1) List of suggested conditions to be attached to Premises Licences where	1) The information provided by Gamcare are conditions that may be attached to	No

		relevant.	Premises Licences where relevant rather than issues that should be included within this Policy Statement.	
British Beer and Pub Association	Market Towers 1 Nine Elms Lane London SW8 5NQ	1) Request to include in the Policy Statement that there should be no reason why an indeterminate number of gaming machines should be allowed in alcohol licensed premises where the operators are complying with the Gambling Commission Code of Practice.	1) The Authority feels that the information contained in paragraphs 10.6 and 10.7 of the Policy Statement is sufficient to inform potential permit holders of this Authority's view on premises with more than 2 such machines.	No
		2) Request that a statement stating that this Authority will allow permits for up to four gaming machines in alcohol	2) The Policy Statement states in paragraph 10.6 that such applications will be decided on a case by case basis. This is	No

		licensed premises without the need for a hearing.	felt to be sufficient in itself and there is not a need to amend the Policy Statement further regarding this particular issue.	
		3) Request that reference to transitional provisions be either included in the Policy Statement or in the form of separate guidance.	3) Separate guidance will be published regarding transitional issues in due course.	No
Sir Lyonel Tollemache Bt	6 Phillimore Court Kensington High Street London W8 7DS	1) Request that because there is no definition of "vulnerable persons" the Policy Statement should state clearly that many people would be exploited by gambling who would not be if the facilities were not available.	1) "Demand" issues cannot be taken into consideration under the Gambling Act 2005. Additionally, if such a statement was included, the inference may be that this Authority is generally against granting gambling premises licences which would be contrary to the Act. Therefore, it is felt	No

			that such a statement cannot be included in the Policy Statement.	
Sir Ronald Arculus	Chairman – Kensington Court Residents Association 20 Kensington Court Gardens London W8 5QF	1) Raises a number of questions; Who profits from gambling premises; Disorder; effects of gambling losses on vulnerable people and exploitation by criminals; and the cumulative effect of a number of gambling premises licences in a small area. Then goes on to identify paragraphs within the Policy Statement that may assist in reducing the detrimental effects of gambling premises within the Royal Borough. The author also expresses concerns about the definition of an “Interested Person”	1) This response identifies possible effects of gambling premises and preventative measures that could be taken that are already contained within the Policy Statement. It is not, therefore, felt necessary to amend the Statement.	No

		<p>in paragraph 5.4. However, the content of paragraph 5.6 makes it clear that if a person is affected by a premises, regardless of the distance from it, he/she can be regarded as an "Interested Person".</p>		
<p>Mrs Angela Charatan</p>	<p>Chairman – Troy Court Residents Association 84 Troy Court Kensington High Street London W8 7RE</p>	<p>1) This response stresses that the Association is not in favour of gambling activities being introduced into the Royal Borough. It also states that conditions must be stringent and strictly enforced and the licensing objectives are upheld. It also states that the definition of "Interested Parties" contained in paragraph 5.4 should</p>	<p>1) There is no suggestion in the response that the Policy Statement needs to be amended.</p>	<p>No</p>

		be given due weight.		
Elizabeth Lowry-Corry	19 Troy Court Kensington High Street London W8 7RA	1) This response is a copy of that made by the Troy Court Residents Association above.	1) Comments as above.	No
Robin Price	Chairman – The Kensington Society 15 Kensington Square London W8 5HH	1) The Policy Statement refers to “Statement of Licensing Policy” in several places in error.	1) Paragraphs 1.1, 3 and 4.1 amended.	Yes
		2) Points out that paragraphs 9.20 and 9.22 are duplicates.	2) Paragraph 9.20 deleted.	Yes
		3) Questions advertising requirements for Provisional Statement applications.	3) Paragraph 9.24 amended to state it is anticipated such applications will be advertised in the same manner as Premises Licences. However, relevant Regulations have not yet been published.	Yes

		4) Definition of "premises" appears twice on pages 21 and 22 in the "Glossary of Terms"	4) Definition on page 21 deleted.	Yes
		5) Questions the role of the Licensing Committee as opposed to the Sub-Committee	5) The terms of reference of the Licensing Committee will be contained within the Council's Constitution, so there is no need to amend the Statement of Gambling Policy.	No
		6) Questions the question marks in Appendix C regarding category B machines maximum stake.	6) Question marks deleted	Yes
Mrs Eva Skinner	Chairman – Onslow Neighbourhood Association 8 Neville Street London SW7 3AR	1) Response asks that intervention by regulators should only take place where any one of the three licensing objectives has been broken and	1) The licensing objectives cannot be "broken" but may not be promoted in which case intervention may occur. However, stating that	No

		reported by an interested party or responsible authority and paragraph 7.2 bullet point one be amended accordingly.	intervention may only occur when an objective is not being promoted and is reported by an interested party or responsible authority will restrict regulators too much. One of the main reasons for intervening will be where licence conditions are breached and inclusion of the suggested text could prohibit such intervention. Therefore, this paragraph will not require any emendation.	
		2) Response suggests that the word "neighbourhood" be included in paragraph 9.12, bullet point 3.	2) Policy Statement amended accordingly.	Yes
		3) Response suggests	3) The wording here	No

		that paragraph 9.25, bullet point 3 be amended and the word "reasonably" be deleted.	is the wording in section 153 of the Act and cannot be amended.	
		4) Response suggests that the words "and the circumstances have not changed" in paragraph 11.7 at the end of the first sentence.	4) The circumstances where a Licensing Authority will refuse an application are stated in paragraph 47 of Part 5 of Schedule 11 to the Act and cannot be amended	No
Councillor Gardner	The Town Hall The Royal Borough of Kensington and Chelsea Hornton Street London W6	1) Suggests that mention of Provisional Statements in paragraph 8.1 be cross referenced to the definition in Appendix A.	1) Policy Statement amended to include a cross reference.	Yes
		2) Questions the wording of paragraph 9.2, bullet point 3 "reasonably consistent"	2) The wording here is the wording in section 153 of the Act and cannot be amended	No

		3) Would like some examples of areas where gambling premises should not be located in paragraph 9.6	3) This will be a policy decision made separately by the Council. Any policy decisions made concerning this issue will be reflected in an amended version of this Statement. Any such policy decision can be considered by the Licensing Committee in light of the individual merits of any contested application it is required to determine, in relevant cases.	No
		4) Questions why the Licensing Authority will "avoid any duplication" with other statutory/regulatory systems.	4) Specifically stated that Authorities will avoid duplication in section 210 of the Act and paragraphs 4.21 and 6.5 of the Gambling Commission's Guidance.	No

		5) Asks whether this Licensing Authority may consider restrictions on advertising on gambling premises in certain circumstances, e.g. near schools, and mention this in the Policy Statement.	5) New paragraph 9.9 inserted.	Yes
		6) Asks what the meaning of "revision" is in paragraph 9.12	6) Revision in this context means that the Policy Statement will be amended to include any further practical definition of "vulnerable person" should such a definition become available.	No
		7) Asks that text be included in paragraph 9.13 to state that where a condition on a licence is volunteered by an	7) This point is covered by bullet point 4 of this paragraph in that any condition, whether volunteered by the	No

		applicant that it does not need to fulfill the criteria contained in this paragraph.	applicant or imposed by the Licensing Authority should be reasonable.	
		8) Asks that the reason why certain conditions cannot be imposed by a Licensing Authority, i.e. if this is because of restrictions imposed by the Act then include that in the text in paragraph 9.15	8) Paragraph 9.15 amended accordingly.	Yes
		9) Asks whether the Licensing Authority can impose a requirement that Door Supervisors must be registered with the SIA in certain circumstances in paragraph 9.16.	9) In relation to casinos and bingo halls the Licensing Authority cannot impose conditions requiring SIA registered "in-house" Door Supervisors because of the statutory exemption. However, an operator can employ such door supervisors if he wishes but this	No

			cannot be a condition on a premises licence.	
		10) Questions the use of the word "advantageous" in paragraphs 9.19 and 9.20. Suggests the use of the word "recommends" instead.	10) Both paragraphs amended accordingly.	Yes
		11) Asks whether guidance will be issued for Members of the Licensing Authority.	11) Any guidance for Members will be dealt with separately to this Policy Statement.	No
		12) Asks that "without supporting evidence" or similar be added to the end of paragraph 9.28	12) Paragraph amended to end "unless there is a material change in circumstances".	Yes
		13) Asks what is being "fast tracked" in paragraph 10.14	13) Paragraph amended accordingly.	Yes

		14) Asks whether the officer functions detailed in Appendix B can also be dealt with by the Chairman of the Licensing Committee if felt relevant.	14) The officer functions shown are allowed to be delegated to officers within the legislation. None of these functions can be delegated to a single Member of the Council as a matter of law. Further, many of the functions listed are designed to be administrative and cannot be dealt with by the Licensing Committee.	Not as yet.
		15) States that it is disappointing that at this stage in the legislative process figures have not yet been fixed by Regulation in the table shown in Appendix C. Asks that the Licensing Authority has the ability to update	15) The relevant Regulation is still awaited and these figures originate from the Gambling Commission's Guidance. As they are contained in an Appendix rather than the main body of the Policy Statement they can be amended if	No

		these figures once the relevant regulation has been published without the need to go out for consultation.	necessary without any consultation process.	
		16) Asks why the map contained in Appendix E is included.	16) Requirement of paragraph 4 of the Gambling (Licensing Authority Policy Statements) Regulations 2006 and paragraph 6.19 of the Gambling Commission's Guidance.	No
Councillor Moylan	The Town Hall The Royal Borough of Kensington and Chelsea Hornton Street London W6	1) Asks why the Policy Statement states that trade associations and residents' and tenants' associations are not treated as interested parties in the manner recommended by the Gambling Commission's	1) The Act states that these bodies can only be regarded as interested parties if they are representing a member who is likely to be affected by the operation of the gambling premises and, in the case of residents, lives sufficiently close	Yes

		Guidance.	to them to be affected. Paragraph amended to clarify the requirement in the legislation.	
		2) Asks why the Council has not passed a resolution in relation to casinos in the Royal Borough.	2) Such a resolution can be taken at any time. Because no casinos will be allowed in the Royal Borough under the Gambling Act until, and unless, the legislation is amended there was no need to put forward such a resolution at this time.	No

STATEMENT OF GAMBLING POLICY

DRAFT



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

STATEMENT OF GAMBLING POLICY

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1 Introduction

1.1 The Gambling Act 2005 requires this Licensing Authority to draft, consult on and publish a Statement of Licensing Policy in relation to its responsibilities under the Act. Once published, this Policy Statement will be kept under constant review and, in any case, will be re-published after every three years. Before any revision of the Statement is published this Authority will carry out a full consultation exercise on the relevant sections.

1.2 Section 25 of the Gambling Act states that;

"Section 25 - Guidance to local authorities

The (Gambling) Commission shall from time to time issue guidance as to-
(a) the manner in which local authorities are to exercise their functions under this Act, and
(b) in particular, the principles to be applied by local authorities in exercising functions under this Act."

The Gambling Commission has duly issued Guidance to Licensing Authorities, Paragraphs 1.13 – 1.27 of which relates to the status of the Guidance and the weight that Licensing Authorities must place upon it. The Guidance stipulates what Licensing Authorities must include in their Statements of Gambling Policy and places restrictions on the discretion of an Authority to interpret sections of the Act to suit its own particular area. Paragraph 1.25 states that;

"In drafting this guidance, the Commission's intention is that, where appropriate, there should be consistency across licensing authorities about the manner in which functions under the Act are carried out. That is important in two respects:
_ to meet the obligations on the Commission and on licensing authorities to pursue the licensing objectives, the Commission will be seeking to achieve a consistent standard of regulation and shared priorities; and
_ in accordance with Government initiatives on minimising the impact of regulation on businesses and, in particular, the Hampton Review of regulation, it will be part of the Commission's role to ensure that operators receive sufficient advice to help them understand and comply with gambling regulation. Part of this will require the Commission to be satisfied that operators know what the requirements of licensing authorities are likely to be."

This Policy, therefore, generally follows the principles laid down in the Gambling Commission's Guidance to Licensing Authorities.

The Gambling Act 2005 can be accessed via:

www.opsi.gov.uk/ACTS/acts2005/20050019.htm

and the Gambling Commission's Guidance to Licensing Authorities may be accessed via;

1.3 The Act also requires this Authority to carry out its various licensing functions so as to be reasonably consistent with the following three licensing objectives:

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

As required by the Guidance issued by the Gambling Commission, in carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:-

- in accordance with any relevant code of practice issued by the Gambling Commission,
- in accordance with any relevant guidance issued by the Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the policy statement published by this Authority under section 349 of the Act

1.4 Nothing in this Policy Statement will override the right of any person to make an application under this Act and have that application considered on its individual merits. Equally, nothing in the Policy Statement will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so.

1.5 This Authority will ensure that when considering applications under this legislation it will avoid duplication with other regulatory regimes so far as possible.

1.6 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. However, unfulfilled demand is not a criterion for a Licensing Authority in considering an application for a premises licence under the Gambling Act. Each application will be considered on its merits without regard to demand.

2. A Profile of the Royal Borough of Kensington and Chelsea

- 2.1 The Royal Borough of Kensington and Chelsea is the Licensing Authority under the Gambling Act 2005. The term "Licensing Authority" will be used in all future references to "The Royal Borough of Kensington and Chelsea" in this Statement of Licensing Policy.
- 2.2 The Royal Borough is situated in West London with Westminster City Council to the east, Brent Council to the north, Hammersmith and Fulham Council to the west and the river Thames to the south. The Borough has a large number of nationally and internationally famous buildings, shopping streets, restaurants and museums and attracts a significant number of visitors and tourists daily in addition to the resident population.
- 2.3 While the Royal Borough is the smallest of the London Boroughs, covering 1,213 hectares (2,997.32 acres), it is also the most densely populated local authority area in this country with 144 people per hectare (58.18 per acre)*. Residential and business properties sit "cheek by jowl" throughout the Borough. This can be compared to another inner London Borough, Camden, which covers an area of 2,160 hectares (5,337.4 acres), nearly twice the size of the Royal Borough, and has 90.8 people per hectare (36.74 per acre). The City of Westminster, covers an area of 2,148 hectares (5,307.7 acres) with 84.4 people per hectare (34.16 per acre), and the London Borough of Greenwich, covering an area of 5,043 hectares (12,461.3 acres) with 45.3 people per hectare (18.33 per acre). A map of the Royal Borough is attached as Appendix A.
**(size of local authority and density of population information obtained from the national census of 2001 as amended in 2004)*
- 2.4 Because of the small size of the Royal Borough and the density of its residential population there are very few areas within its boundaries that could be described as solely commercial or shopping areas. Even those that are commercial or shopping areas have significant numbers of residential dwellings above commercial premises and residential areas in close proximity.

3. Consultation on the Statement of Licensing Policy

- 3.1 Before publishing this Policy the Licensing Authority has consulted with the Police, the Fire Authority, representatives of local residents, representatives of local businesses and representatives of those persons carrying on gambling businesses in this Authority's area. This Authority has also consulted with relevant departments within the Council.

4. Declaration

- 4.1 In producing this Statement of Licensing Policy, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses from those consulted on the Statement.

5. Responsible Authorities and Interested Parties

- 5.1 The Gambling Act 2005 allows for two different types of groups to make representations regarding applications to the Licensing Authority and also to apply to have existing licences reviewed by the Authority. These groups are "Responsible Authorities" and "Interested Parties"

- 5.2 The Act defines Responsible Authorities as:

- (a) a licensing authority in England and Wales in whose area the premises are wholly or partly situated,
- (b) the Gambling Commission,
- (c) the chief officer of police for a police area in which the premises are wholly or partly situated,
- (d) the fire and rescue authority for an area in which the premises are wholly or partly situated,
- (e) the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated,
- (f) an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated,
- (g) a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm,
- (h) Her Majesty's Commissioners of Customs and Excise, and
- (i) any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

- 5.3 For the purpose of this Licensing Authority the body designated as competent to advise the authority about the protection of children from harm ("g" above) will be the Local Safeguarding Children Board at the Royal Borough of Kensington and Chelsea.

- 5.4 The Act states that a person is an "Interested Parties" 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 paragraph (a) or (b).

- 5.5 The Licensing Authority is required by Regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

The principles for this Authority are that each case will be decided upon its own merits and rigid rules will not be applied to its decision making. It will consider the examples provided in the Gambling Commission's Guidance for Licensing Authorities at paragraphs 8.14 and 8.15. It will also consider the Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 5.6 Section 158 of the Gambling Act states that an "interested party" must "live sufficiently close to the premises to be likely to be affected by the authorised activities", or "has business interests that might be affected by the authorised activities", or be a body representing persons who satisfy this criteria. The Gambling Commission recommends in its Guidance to Licensing Authorities that interested parties include trade associations and trade unions, and residents' and tenants' associations. However, it fails to mention that those bodies should represent persons or businesses sufficiently close to be likely to be affected by the operation of the premises. (Gambling Commission Guidance for Local Authorities paragraph 8.17). This Authority will follow section 158 of the Act and will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. will be likely to be affected by the activities being applied for.

6. Exchange of Information

- 6.1 Licensing Authorities are required to include in their Policy Statements the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

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

7. Enforcement

7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for Local Authorities and will endeavour to be:

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

This Authority will also act in accordance with its own Enforcement Policy.

7.3 As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 This Authority will also, as recommended by the Gambling Commission's Guidance for Licensing Authorities, adopt a risk-based inspection programme.

7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about

manufacture, supply or repair of gaming machines will also be dealt with by the Gambling Commission.

8. Licensing Authority Functions

- 8.1 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* (see Appendix A page 22 for more information)
 - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue *Club Machine Permits to Commercial Clubs*
 - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and Endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions

It should be noted that local Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences. The Financial Services Authority regulates spread betting and the National Lottery Commission regulates The National Lottery

9. PREMISES LICENCES

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

- 9.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is;
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives, and
 - in accordance with the Authority's statement of licensing policy.
- 9.3 This Authority takes particular note of the Gambling Commission's Guidance for Licensing Authorities, which states that Authorities should take particular care in considering applications for multiple licences for a building, and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)
- 9.4 Clearly, there will be specific issues that Authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.
- 9.5 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. 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. This Authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. 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.
- 9.6 This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the

Gambling Commission's Guidance for Licensing Authorities, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon regarding 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 being upon the applicant to show how potential concerns can be overcome.

- 9.7 This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it.
- 9.8 Premises licences granted must be reasonably consistent with the licensing objectives. This Licensing Authority is aware that the Gambling Commission will be taking a leading 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. Where an area has known high levels of crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions, such as the provision of door supervisors, may be relevant.
- 9.9 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising the gambling facilities on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.
- 9.10 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.
- 9.11 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted that the Gambling Commission's Guidance for Licensing Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to, children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's 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.

9.12 As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this 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 a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision. This Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues in relation to this licensing objective regarding specific premises such as casinos.

9.13 Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. This Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

9.15 It is noted that because of restrictions imposed by the Gambling Act there are conditions which the Licensing Authority cannot attach to premises licences, which are:

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

9.16 The Gambling Commission advises in its Guidance for Licensing Authorities that they may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that there is no requirement for "in house" door supervisors at casinos or bingo premises to be licensed by the Security Industry Authority (SIA) through a specific exemption contained in Paragraph 17 of Schedule 16 to the Gambling Act. However, following clarification from the Department for Culture, Media and Sport (DCMS) and the Security Industry Authority (SIA), any contract staff employed in a Door Supervisor role will still require to be licensed by the SIA.

9.17 For premises other than "in house" staff employed at casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

9.18 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This Licensing Authority will make a door supervisor requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

9.19 In relation to Adult Gaming Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended

that if applicants provide means to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. Such measures may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas

9.20 In relation to (licensed) Family Entertainment Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended that if applicants are able to satisfy the Authority that, for example, there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Such measures may include:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truanting school children on the premises

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

9.21 *No Casinos resolution* – At this time this Licensing Authority has not passed a 'no casino/no additional casinos' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, this Policy Statement will be updated with details of that resolution. Any such decision will be made by the Full Council.

9.22 *Bingo Premises* - This Licensing Authority notes that the Gambling Commission's Guidance states in paragraph 18.4 that:

"It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are

available in premises to which children are admitted Licensing Authorities should ensure that:

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

9.23. *Betting machines in Betting Premises* - This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number and nature of betting machines an operator wants to offer. This Authority will consider limiting the number of machines only where there is evidence that such machines have been, or are likely to be, used in breach of the licensing objectives. Where there is such evidence this Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

9.24 *Betting Offices* - This Licensing Authority will look closely at applications to re-site betting offices in the same locality or to extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected.

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

9.26 *Travelling Fairs* - It will fall to this Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling

fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

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

- 9.27 *Provisional Statements* - This Licensing Authority notes the Guidance from the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

It is anticipated that Regulations will require applications for Provisional Statements to be advertised in the same way as applications for Premises Licences. However, at the time of writing this Policy Statement such Regulations have not been published. In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

This Authority has noted the Gambling Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

- 9.28 *Reviews* - Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out.

This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious or will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review unless there is a material change in circumstances.

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

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

10. Permits and Temporary and Occasional Use Notices

10.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7 to the Gambling Act 2005)

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

10.2 The Gambling Act 2005 states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

10.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the chief officer of police has been consulted on the application....Licensing Authorities might wish to consider asking applicants to demonstrate:

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

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

10.4 Statement of Principles – This Licensing Authority has not yet adopted a formal “Statement of Principles” but will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truancing school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

10.5 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1) to the Gambling Act 2005)

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

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

10.6 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and *“such matters as they think relevant.”* This Licensing Authority considers that *“such matters”* will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. This Authority will also expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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

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

10.8 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3) to the Gambling Act 2005)

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

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

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- that they meet the objective of carrying out gambling openly and fairly; and,
- that the premises are mainly or wholly used for gambling purposes.

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

10.10 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the Licensing Authority cannot attach any further conditions. The conditions in the Act are:

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

10.11 Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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

Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations."

- 10.13 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - the applicant's 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 ten years; or
 - an objection has been lodged by the Commission or the police.

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

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

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

10.15 Temporary Use Notices

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

premises. This is a new permission and Licensing Authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

10.16 Occasional Use Notices:

This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

11. SMALL SOCIETY LOTTERIES

11.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:

- licensed lotteries (requiring an operating licence from the Gambling Commission); and
- exempt lotteries (including small society lotteries registered by the Licensing Authority)

11.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- small society lotteries;
- incidental non-commercial lotteries;
- private lotteries;
- private society lotteries;
- work lotteries;
- residents' lotteries;
- customer lotteries;

11.3 Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits will be made available on the Council's web-site or by contacting the Licensing Team on 020 7341 5152.

- 11.4 Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.
- 11.5 Lotteries will be regulated through; a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, codes of practice and any guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the Licensing Authority will have due regard to the Gambling Commission's guidance.
- 11.6 The Licensing Authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the register is completed, the Licensing Authority will notify the applicant of his registration. In addition, the Licensing Authority will make available for inspection by the public the financial statements or returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the Licensing Authority will notify the Gambling Commission in writing, copying this to the Society concerned. The Licensing Authority will accept return information either manually but preferably electronically by emailing: licensing@rbkc.gov.uk
- 11.7 The Licensing Authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused. Where the Licensing Authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 11.8 The Licensing Authority may refuse an application for registration if in their opinion:
- 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 provided in or with the application for registration is false or misleading.
- 11.9 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no

relevant convictions. The Licensing Authority may also seek further information from the Society.

- 11.10 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
- 11.11 The Licensing Authority may revoke the registered status of a Society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the Society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 11.12 Where a Society employs an external lottery manager, it will need to satisfy itself that the manager hold an operator's licence issued by the Gambling Commission, and the Licensing Authority will expect this to be verified by the Society.

Appendix A: Glossary of Terms

Default Conditions - Conditions that will apply through Statute unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

Casino Premises Licence Categories - a) Regional Casino Premises Licence b) Large Casino Premises Licence c) Small Casino Premises Licence d) Casinos permitted under transitional arrangements.

Child - Individual who is less than 16 years old.

Code of Practice: Means any relevant code of practice under section 24 of the Gambling Act 2005

Lottery - An arrangement where 1) persons are required to pay to participate in the arrangement 2) in the course of the arrangement, one or more prizes are allocated to one or more members of a class 3) the prizes are allocated by a series of processes, and 4) the first of those processes relies wholly on chance.

Exempt Lotteries - Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types:

- Small Society Lottery (required to register with Licensing Authorities.
- Incidental Non Commercial Lotteries e.g. Raffle at a dance/church fair
- Private Lotteries e.g. Raffle at a student hall of residence
- Customer Lotteries e.g. Supermarket holding a hamper raffle

External Lottery Manager - An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.

Large Lottery - Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.

Licensing Committee - A committee of 10 to 15 Councillors appointed by the Council to represent the Licensing Authority in Gambling matters.

Licensing Sub Committee - A sub committee of members appointed from the Licensing Committee to whom the functions of the licensing committee can be delegated under the Act to determine applications.

Mandatory Conditions - Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances.

Operating Licences - Licences to permit individuals and companies to provide facilities for certain types of gambling. They may authorize remote or non remote gambling.

Personal Licence - Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.

Premises Licence - Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and some family entertainment centers.

Premises - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

Private Lotteries - 3 Types of Private Lotteries:

- Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society
- Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises
- Residents' Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises;
 - Prize Gaming - Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

Small Lottery - Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.

Small Society Lottery - A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.

Provisional Statement - Where an applicant can make an application to the Licensing Authority in respect of premises that he:

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

Temporary Use Notice - To allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

Vehicles - Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.

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Appendix B: Delegation of Functions

Matter to be dealt with	Full Council	Sub-committee of Licensing Committee	Officers
Final approval of 3 year Licensing Policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/ Representations have been withdrawn
Application for a variation to a licence		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 for 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 a club gaming/club machine permit		Where representations have been received and not withdrawn	Where no representations received/ Representations have been withdrawn
Cancellation of a club gaming/club machines permit		X	
Applications for other			X

permits			
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	

Appendix C: Categories of Gaming Machines

CATEGORIES OF GAMING MACHINE

DCMS expects to issue draft regulations for consultation by mid-2006. This Table sets the current proposals for the different categories with the maximum stakes and prizes that apply. This could be subject to change, and this guidance will be updated in due course.

CATEGORY MAXIMUM STAKE MAXIMUM PRIZE

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 or £8 when non-monetary prize

Appendix D: USEFUL CONTACTS

If you wish to make any comments on the Royal Borough of Kensington and Chelsea's Gambling Policy or if you want further information regarding the Gambling Act 2005 please contact:

Patrick Crowley
Licensing Team Manager
The Royal Borough of Kensington and Chelsea
37 Pembroke Road
London
W8 6PW

Telephone: 020 7341 5601
Fax: 020 7341 5645
Email: Patrick.Crowley@rbkc.gov.uk

Information is also available from:

The Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Telephone: 020 7211 6200
Internet: www.culture.gov.uk
Email: gambling@culture.gov.uk
The Gambling Act can be viewed at:

www.opsi.gov.uk/ACTS/acts2005/20050019.htm

The Gambling Commission's Guidance can be viewed at:

www.gamblingcommission.gov.uk/UploadDocs/Contents/Documents/Guidance%20to%20Licensing%20Authorities.pdf

The Metropolitan Police Licensing Officer, Sergeant Trevor Lewis, can be contacted regarding gambling issues within the Royal Borough of Kensington and Chelsea on:

Telephone: 020 7370 6065
Email: Trevor.lewis@met.pnn.police.uk

RESPONSIBLE AUTHORITY CONTACTS

- 1) The Licensing Authority
The Licensing Team
Council Offices
37 Pembroke Road
London W8 6PW
- 2) The Gambling Commission – contact details await
- 3) Sergeant Trevor Lewis
C/o Council Offices
37 Pembroke Road
London W8 6PW
- 4) The Fire Authority:
Licensing Administrator
Kensington and Chelsea Borough Team
Hammersmith Fire Station
190-192 Shepherds Bush Road
London W6 7NL
- 5) The Planning Authority:
The Senior Administration Officer Licensing
Development Control
Planning Department
The Town Hall
Hornton Street
London W8 7NX
- 6) The Authority which has functions in relation to pollution to the environment:
The Team Manager
Noise and Nuisance Team
Council Offices
37 Pembroke Road
London W8 6PW
- 7) The Authority which has functions in relation to harm to human health:
The Team Manager
Health and Safety Team
Council Offices
37 Pembroke Road
London W8 6PW
- 8) Officer competent to advise about the protection of children from harm:

The Local Safeguarding Children Board
The Town Hall
Hornton Street
London W8 7NX

- 9) HM Revenue and Customs – contact details awaits

Appendix E: Map of the Royal Borough of Kensington and Chelsea



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