

**Agenda Item No:** 12

**Report To:** **CABINET**

**Date:** **Thursday 11<sup>th</sup> February 2016**

**Report Title:** **Gambling Act 2005 – Policy Statement Revision**

**Report Author:** **Health, Parking and Community Safety Manager**

**Portfolio Holder:** **Cllr Heyes – Portfolio Responsibility for Highways, Wellbeing and Safety**

**Report Author:** **James Hann - Health, Parking & Community Safety Manager**



**ASHFORD**  
BOROUGH COUNCIL

<b>Summary:</b>	The purpose of this report is to present to the Cabinet the Gambling Policy Statement prepared in accordance with the Gambling Act 2005 (the Act) for subsequent submission for approval to full Council, with any changes the Cabinet deem necessary. The report also provides a summary of the policy consultation results and indicates how this consultation has been taken into account when preparing the final version of the policy. There are no significant implications associated with this latest revision of the policy.
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**Key Decision:** NO

**Affected Wards:** All

**Recommendation:** **The Cabinet are asked to recommend the revised Gambling Policy Statement 2016-2019 to the full Council, with any changes the Cabinet deem necessary.**

**Policy Overview:** The Gambling Act 2005 requires local authorities to publish and review a three year licensing policy in respect of various gambling activities. The revision of the Gambling Policy Statement is a legal requirement and it also contributes to the objectives of a wider group of related organisations.

**Financial Implications:** The costs associated with the revision to the Gambling Policy Statement are met through the licensing fees under the 2005 Act.

**Risk Assessment** YES

**Communities Impact Assessment** YES

**Other Material  
Implications:**

The implementation of the Gambling Act has an impact on several service units within the council, particularly Health, Parking and Community Safety, Legal Services and Member Services. There are no significant implications associated with this latest revision of the policy.

**Exemption  
Clauses:**

None

**Background  
Papers:**

None

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## **Report Title: Gambling Act 2005 – Policy Revision**

### **Purpose of the Report**

1. The purpose of this report is to present to the Cabinet the Gambling Policy Statement prepared in accordance with the Gambling Act 2005 (the Act) for approval to the full Council, with any changes the Cabinet deem necessary. The report also provides a summary of the policy consultation results and indicates how this consultation has been taken into account when preparing the final version of the policy. There are no significant implications associated with this latest revision of the policy.

### **Issue to be Decided**

2. The Cabinet are asked to recommend approval of the revised Gambling Policy Statement, as prepared in accordance with the Gambling Act 2005. The policy is in Appendix A.

### **Background**

3. The Borough Council as the licensing authority must prepare and publish a new statement of licensing principles for gambling (the statement) every three years under the requirements of section 349 of the Act.
4. The statement forms the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the risk environment and therefore its expectations in relation to operators with premises in the Borough.
5. The Borough currently has the following gambling related businesses: One bingo establishment, 12 betting shops and 5 adult gaming centres. The majority of these premises are based in the urban area of Ashford, with one betting shop located in Tenterden.
6. In addition 93 pubs and clubs across the borough are licensed to use gaming machines.

### **Changes to national gambling regulation and our Gambling Policy Statement**

7. There have been some changes in national gambling regulation and policy which need to be reflected in our Statement. The Gambling Commission have introduced the requirements within their Licensing Conditions and Codes of Practice (LCCP) that operators, from 6<sup>th</sup> April 2016, must assess the risks their gambling premises may have in relation to the licensing objectives.
8. Licence conditions and codes apply to new and existing licences.

9. While operators will have this new risk assessment requirement from 6<sup>th</sup> April 2016 and all those licensed under the Act will have to adhere to the revised LCCP.
10. The Gambling Policy Statement before Cabinet contains the minimum of amendments and no changes to the intent or direction of the policy. The amendments include:
  - Removal of out of date elements
  - Change of dates
  - Legislative changes
  - Inclusion of additional information
11. The revised Gambling Policy Statement is provided at Appendix A.

### **Risk Assessment**

12. Minimal legal risk which is mitigated by having an up to date policy which reflects national guidance. Financial risk equally low as changes do not result in additional costs to the council. The new risk assessment will need to be reviewed by licensing staff, but there are no significant difficulties associated with doing this. Finally minimal risks in terms of safeguarding (which are actually enhanced by this latest policy revision), reputation, and the environment.

### **Communities Impact Assessment**

13. A Communities Impact Assessment has been completed. No negative impacts have been identified.

### **Other Options Considered**

14. The requirement to implement and enforce the Act is a statutory duty. The Gambling Commission guidance to a large effect dictates the process.

### **Consultation**

15. The current policy was developed in consultation with the Kent Police. The Kent and Medway Licensing Strategic Steering Group also guided the development of the current policy.
16. Cabinet approved a revised Gambling Policy Statement for the purpose of public consultation on the 12<sup>th</sup> November (minute CA/202/121115 refers). The consultation took place between 20<sup>th</sup> November and 31<sup>st</sup> December 2015.
17. The consultation process included the police, representatives of the gambling industry and those that represent people who may be adversely affected by gambling. A full list of the consultees is provided at Appendix B.

18. The draft policy was also made available on the council's website.
19. The policy revision does not make any major changes to the previous policy approved by the council so perhaps it is not surprising that there were only two responses. One was from Gosschalks solicitors on behalf of the Association of British Bookmakers (ABB), and one from Coral Racing Limited. The consultation responses are in Appendix C.
20. The two consultation responses were broadly supportive of the draft policy, but made a few useful comments. The main points raised by both consultees are summarised in Appendix D, along with suggested amendments to the policy. These amendments are now reflected in the Gambling Policy Statement in Appendix A.
21. The consultation responses did not indicate the need to develop a local profile.

### **Implications Assessment**

22. Judicial review is a significant risk if the policy the council adopts strays beyond the key licensing objectives.

### **Handling**

23. Legal and Democratic Services staff have been consulted following the consultation.
24. Once agreed the revised policy will need to be agreed by the full Council.

### **Conclusion**

25. The Gambling Act 2005 created a new system of licensing and regulation for commercial gambling in this county. Amongst other changes, it gave to local authorities new and extended responsibilities for licensing premises for gambling. The objectives of the Act are to keep crime out of gambling, make sure gambling is fair and open and protect children and vulnerable people from harm. Our challenge as a council is to revise a policy that will continue to support the aspirations of the legislation.

### **Portfolio Holder's Views**

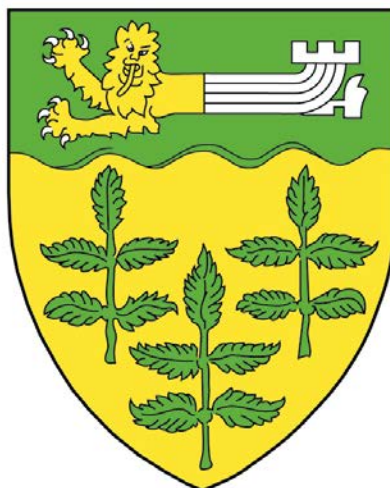
26. The Portfolio Holder will provide his comments at the Cabinet meeting

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- Appendix A: Proposed Gambling Policy Statement 2016 - 2019**
- Appendix B: List of consultees**
- Appendix C: Consultation responses**
- Appendix D: Summary of consultation responses**

**Appendix A:**



**ASHFORD**  
**BOROUGH COUNCIL**

**Proposed Gambling Policy  
Statement 2016 - 2019**

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## **1. The Licensing Objectives**

In exercising most of its functions under the Gambling Act 2005 (the Act) this licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it:

- a) in accordance with any relevant code of practice;
- b) in accordance with any relevant guidance issued by the Gambling Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with this gambling policy statement.

The licensing objectives are:

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

## **2. Introduction**

Ashford Borough Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total. Each is represented on the Kent and Medway Regulatory Licensing Steering Group whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

Ashford is the largest Borough in Kent, covering 224 square miles and containing 39 parishes and is part of Kent Police's Eastern Division. The estimated population of the Borough in 2015 is 122,000, having trebled in the last 40 years. The population is predicted to increase to 129,900 by 2021 and to 149,200 by 2031.

The borough has the largest rural area in Kent and has two towns: urban Ashford and the rural town of Tenterden.

Ashford's road and rail connections make it ideal for commuting to London, to other parts of Kent, and to continental Europe. The borough's location, connectivity and accessibility make it an ideal business location and the number of jobs is predicted to grow by at least 12,400 over a 20 year period to 2030.

The council currently licences 1 bingo establishment, 12 betting shops, 5 adult gaming centres and 93 pubs and clubs to use gaming machines.



Licensing authorities are required by the Act to publish a statement of the principles that they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement can also be reviewed from “time to time” and the amended parts re-consulted upon. Ashford Borough Council consulted widely on the 2010 and 2013 policy statements before finalising and publishing.

The Act requires that the following parties be consulted by licensing authorities:

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

In determining its policy the licensing authority must have regard to the Guidance and will give appropriate weight to the views of those it has consulted.

The full list of comments made and the consideration by the council are available by request to: Ashford Borough Council's Licensing Authority's email [licensing@ashford.gov.uk](mailto:licensing@ashford.gov.uk).

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

### **3. Declaration**

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

### **4. Casinos**

This licensing authority has not passed a 'resolution not to issue casino premises licences' resolution under section 166 of the Act, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

### **5. Background**

Gambling is defined in the Act as either gaming, betting or taking part in a lottery:

- 'Gaming' means playing a game for the chance to win a prize.
- 'Betting' means:
  - making or accepting a bet on the outcome of a race, competition or other event
  - the likelihood of anything occurring or not occurring
  - whether something is true or not.
- A 'Lottery' is where participants are involved in an arrangement where prizes are allocated wholly by a process of chance.

### **6. Functions**

The responsibility for regulating gambling is shared between the Gambling Commission and local authorities. The Gambling Commission is responsible for issuing operating licences to organisations and individuals who provide facilities for gambling and personal licences to persons working in the gambling industry. The Commission will take the lead role on ensuring that gambling is conducted in a fair and open way through the administration and enforcement of operating and personal licence requirements. The Commission will also be responsible for remote gambling activities such as facilities provided via the Internet, television or radio.

<b>Function</b>	<b>Who deals with it</b>
Be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences	Licensing Authority
Issue provisional statements	Licensing Authority
Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits	Licensing Authority
Issue club machine permits to commercial clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
Grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required	Licensing Authority
Register small society lotteries below prescribed thresholds	Licensing Authority
Issue prize gaming permits	Licensing Authority
Receive and endorse temporary use notices	Licensing Authority
Receive occasional use notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange)	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions	Licensing Authority
Issue and renewal of operating licences	Gambling Commission
Review operating licences	Gambling Commission
Issue personal licences	Gambling Commission
Issue codes of practice	Gambling Commission
Issue Guidance to local authorities	Gambling Commission
Licence remote gambling through operating licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines	Gambling Commission
Deal with appeals against the Commission's decisions	Gambling Appeals Tribunal

## 7. Responsible Authorities

In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

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

In accordance with the Gambling Commission's Guidance this authority designates the following for this purpose:

Kent Children's Social Services, Kent County Council Kroner House, Eurogate Business Park, Ashford, TN24 8XU
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The contact details of all the Responsible Bodies under the Gambling Act 2005 are available in Appendix 2.

## 8. Interested parties

The licensing authority is required by regulations 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:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - b) has business interests that might be affected by the authorised activities;
- or
- c) represents persons who satisfy paragraph (a) or (b)."

The category of representative bodies may for example include trade associations, trade unions, residents' associations and tenants' associations, provided that the body represents either persons living close to the premises or persons who have business interests that might be affected.

The Gambling Commission's Guidance recommends that the phrase "business interests" should be given the widest possible interpretation, so that this category could include partnerships, charities, faith groups and medical practices."

Interested parties can be persons who are democratically elected such as Councillors and Members of Parliament or a Parish Council as an elected body.

Councillors wishing to make representations may not also serve on the Licensing Sub-Committee dealing with an application as there would be a conflict of interest. Care should be taken when approaching councillors that they are not part of the sub-committee dealing with the application. If there are any doubts then please contact the licensing department ([licensing@ashford.gov.uk](mailto:licensing@ashford.gov.uk)).

## **9. Consideration of Applications**

The licensing authority is bound by section 153 of the Act which states the principle in favour of permitting applications and that each application made will be decided on a case by case basis, on its own merits, and will set out a clear statement detailing the reasons for granting, refusing or reviewing all licenses under the Act. It will not apply a rigid rule to its decision making but will ensure that all decisions made are done so with full reference to the licensing authority's licensing objectives.

In reaching a view that the grant of a licence, or the giving of the temporary use notice, is in accordance with such guidance, code of practice or policy statement, a licensing authority is, in common with all such public authority decision makers, under a duty to act fairly and rationally. In cases where an authority is concerned whether a grant would be in accordance with, for example, the guidance in this document, this can be resolved by the imposition of appropriate licence conditions. In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this Guidance and its own policy statement or view as to the application of the licensing objectives the structure of section 153 makes it plain that the Commission's codes and Guidance take precedence.

Where category C or above machines are on offer in premises to which children are admitted, the licensing authority will consider the following issues:

- whether 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
- whether and how children are prohibited from admission to the area where these machines are located
- how access to the area where the machines are located is supervised
- whether the area where the machines are located is arranged in such a way that it can be observed by the staff or the licence holder
- whether there are notices prominently displayed at the entrance to and inside any such area stating that access to the area is prohibited to persons under 18.

The Act and the Gambling Commission's Guidance make clear that when considering applications for premises licences the licensing authority shall not have regard to the expected demand for the facilities which it is proposed to provide.

Guidance also states that moral or ethnic objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives, however, the stated licensing objectives encompass our duties to protect the public and vulnerable members of our community, such as children, quite explicitly.

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) commencing May 2015, set out additional matters that the council should take into account when considering licence applications for premises licences. Guidance section 19, LCCP condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

## **10. Licence Conditions and Codes of Practice**

Considerations that an operator must make in order to protect children and young people from accessing gambling premises are set out in Section 7 of the Gambling Commission Guidance to Local Authorities.

The LCCP prescribes how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed. In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm.

The council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

## **11. Risk Assessments**

Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of casinos, adult gaming centres, bingo premises, family entertainment centres, betting shops and remote betting intermediaries to assess specific local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the council's inspection regime and may be requested when officers are investigating complaints.

This council expects the following matters to be considered by operators when making their risk assessment:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling;
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends;
- Urban setting;
- Range of facilities in proximity to the licensed premises,
- Matters relating to children and young persons;
- Recorded incidents of attempted underage gambling.

Matters relating to vulnerable adults, including:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling;
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends;
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate.

## **12. Exchange of Information**

Licensing authorities are required to include in their policy statement 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.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Act 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 Act.

## **13. Enforcement**

The Kent and Medway Licensing Steering Group has formulated an Enforcement Protocol which each licensing authority and responsible authority has agreed. The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Act and the



Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues. A copy is available on request.

As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme, targeting high-risk premises with a lighter touch towards low-risk premises

The council will take account of the Gambling Commission's guidance document and any subsequent amendments on the 'Approach to Test Purchasing' when considering making test purchases at gambling premises.

Licensing authorities are required by regulation under the Act 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.

This licensing authority will be guided by the Gambling Commission's Guidance for local authorities and it 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.

The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for the operator and personal licences and will be responsible for compliance as regards unlicensed premises.

## Appendix 1

The Gambling Commission's Guidance for licensing authorities states the following. The paragraphs below endeavour to meet this request:

"The statement of policy should set out what factors it may take into account when considering applications for premises licences, permits and other permissions and matters that it will consider relevant when determining whether to review a licence. This may be informed by the licensing authority's local area profile and will include considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children." (6.33)

"Although the statement of policy should identify the factors to be considered, it should be clear that each application or review will be decided on its merits. Importantly, if an applicant for a premises licence can show how risks to the licensing objectives can be mitigated, the licensing authority will need to take that into account in its decision making." (6.34)

### 1. Permits

#### **(i) Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

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

Ashford Borough Council has considered and intends to require applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- 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.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals (paragraph 18(4)).

#### **Statement of Principles**

This licensing authority has adopted a statement of principles which is available in Appendix 3.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable

excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

**(ii) (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the 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 Act has been committed on the premises.

If a premises wishes to have more than two 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 Act, 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 these will concern the need to protect children from harm and vulnerable persons from being harmed or being exploited by gambling. We will expect the applicant to satisfy the authority that there will be sufficient measures in place to ensure that persons under 18 years old will not have access to adult only gaming machines.

Measures which will satisfy this authority with regards to these concerns may include adult only machines being placed in site of bar areas and/or in the site of staff that can monitor their use. Guidance, notices from organisations such as Gamcare should also be considered.

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, but conditions (other than these) cannot be attached.

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

### **(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

Given that these premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant this licensing authority will give weight to child protection issues. Applicants will be asked to set out the types of gaming that they are intending to offer and will be expected to demonstrate:

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

This licensing authority has adopted a statement of principles which is available in Appendix 3. In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

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

### **(iv) 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 club gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B3A, B4 C or D), equal chance gaming and games of chance as set-out in regulations. A club machine permit will enable the premises to provide gaming machines (three machines of categories B3A, B4 C or D).

The Gambling Commission Guidance for local authorities 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 restricted to bridge and whist. There is no requirement for a club to have an alcohol licence. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples

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

Before granting a permit the licensing authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

This licensing authority is aware that: "licensing authorities may only refuse an application on the grounds that:

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

It should be noted that there is a 'fast-track' procedure available for premises that hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under this process may be refused are that:

- a) the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act;
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) 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 B3A, B4 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.

## **2. Premises Licences**

### **(i) Decision making - general**

Premises licences will be subject to the permissions/restrictions set-out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. The starting point for consideration of any application is that it will be

granted subject only to the mandatory and default conditions and any additional conditions must be evidence based.

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:

- 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.

Any conditions attached to licences by the licensing authority will be proportionate and will be:

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

Decisions upon individual conditions on a case by case basis, although there may be a number of measures that may be relevant, including the use of supervisors, appropriate signage for adult only areas, etc. This licensing authority will expect the applicant to offer their own suggestions as to the way in which the licensing objectives can be promoted.

There are also 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 Act 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.

## **(ii) Premises**

A premises is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises it this will be considered on a case by case basis. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, "licensing authorities should be aware that:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

### **(iii) Location**

This licensing authority notes the Gambling Commission's Guidance for local authorities which states that: "Local authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003, in which context they have wider powers to also take into account measures to prevent nuisance. In relation to preventing disorder, licensing authorities have the ability under section 169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in section 178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence."

The Commission also states in its Guidance: "For example, a licensing policy statement might set out that the authority will consider very carefully whether applications for premises licence in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. Any such policy must, however, come with the qualification that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.". This licensing authority will adhere to this advice.

### **(iv) Planning**

Planning and licensing are different regulatory systems and will be dealt with separately. As the Gambling Commission's Guidance states: "When dealing with a premises licence application for finished buildings, the licensing authority

should not take into account whether those building have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

This authority 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.

#### **(v) Duplication**

As stated in the section above on enforcement, and as per the Gambling Commission’s Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

#### **(vi) Door Supervisors**

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. The 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.

Any person employed to fulfil a condition on a premises licence (under the Licensing Act 2003) that requires door supervision should hold a relevant licence issued by the Security Industry Authority (SIA).

It is to be noted that door supervisors at licensed casino or bingo premises may be exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel may not need licensing under the 2001 Act.

#### **(vii) Licensing objectives**

This licensing authority has considered the Gambling Commission’s Guidance to local authorities and some comments are provided with regard to the licensing objectives.

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



- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

This licensing authority will pay particular attention to any Codes of Practice, which the Gambling Commission issues as regards this licensing objective.

### **(viii) Reviews**

Interested parties or responsible authorities can make requests for a review of a premises licence; 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 following matters:

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

Consideration will be given as to whether the request is frivolous, vexatious, or will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

### **(ix) Provisional Statements**

In terms of representations about premises licence applications, following the grant of a provisional statement, the Gambling Commission's Guidance states: "If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises. 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:

- which could not have been raised by way of representations at the provisional licence stage; or
- which, in the authority's opinion, reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing

authorities should discuss any concerns they have with the applicant before making a decision.

This authority has noted the Gambling Commission's Guidance that "A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law."

#### **(x) Adult Gaming Centres (AGCs)**

This licensing authority particularly notes the Gambling Commission's Guidance which states: "No-one under the age of 18 is permitted to enter an AGC."

"Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport."

The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information, leaflets and helpline numbers for organisations such as Gamcare.

This list is not mandatory nor exhaustive, but merely indicative of possible measures.

#### **(xi) (Licensed) Family Entertainment Centres**

Family entertainment centres are wholly or mainly used for having gaming machines available for use. This licensing authority will, as per the Gambling Commission's guidance refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

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

This list is not mandatory nor exhaustive, but merely indicative of possible measures.

**(xii) Tracks**

This licensing authority will have regard to the Gambling Commission's guidance.

**(xiii) Casinos**

This licensing authority will have regard to the Gambling Commission's guidance.

**(xiv) Bingo**

This licensing authority will have regard to the Gambling Commission's guidance.

**(xv) Temporary Use Notices**

There are a number of statutory limits as regards temporary use notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where temporary use notices are received relating to the same building / site.

**(xvi) Occasional Use Notices**

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

**(xvii) 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.

## Appendix 2: Responsible Authorities Contact details

### Licensing Authority

Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford, Kent  
TN23 1PL

### Chief Officer of Police

Licensing / CSU  
Canterbury Police Station  
Old Dover Road  
Canterbury  
Kent  
CT1 3JQ

### The Fire Authority

South Kent Group Fire Safety Office  
Folkestone Fire Station  
Park Farm Road  
Folkestone  
Kent  
CT19 5LT

### The Local Planning Authority

Development Control  
Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford, Kent  
TN23 1PL

### Enforcing Authority for Pollution and Harm to Human Health & the enforcing authority for Health and Safety at Work etc. Act 1974

Health, Parking and Community Safety,  
Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford, Kent  
TN23 1PL

HM Principal Inspector, Services  
Group / Enforcement Liaison  
Health & Safety Executive  
Phoenix House,  
23 - 25 Cantelupe Road,  
East Grinstead,

West Sussex, RH19 3BE

### Social Services

Integrated Family Services  
Manager  
Specialist Children's Services  
Kent County Council,  
Unit 5, Kroner House,  
Eurogate Business Park,  
Ashford  
TN24 8XU

### Gambling Commission

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

### HM Revenue & Customs

HM Revenue and Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

**Appendix 3: Statement of principles for unlicensed family entertainment centres, gaming machine permits and prize gaming permits**



**ASHFORD**  
**BOROUGH COUNCIL**

**Statement of Principles for Unlicensed Family Entertainment Centres, Gaming Machine Permits & Prize Gaming Permits**

Gambling Act 2005

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## **The Gambling Act 2005**

The Gambling Act 2005 (the Act) reforms the law on all commercial gambling in the United Kingdom other than the National Lottery and spread betting.

Ashford Borough Council is the relevant licensing authority for the licensing of premises for gambling such as bookmakers, casinos and bingo halls as well as issuing various other gambling permits.

The Act requires the council, as the licensing authority, to aim to permit the use of premises for gambling in so far as the authority thinks it:

- In accordance with a relevant code of practice
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the licensing authority policy issued under the Act.

The licensing objectives are:

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

### **Purpose of this document**

This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC) gaming machine permit or a prize gaming under the Gambling Act 2005.

Ashford Borough Council expects all applicants to work in partnership to promote the above objectives through clear and effective management of each gambling operation whether in respect of a permit or premises licence.

In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with Ashford Borough Council Statement of Licensing Policy and Principles. – Gambling Act 2005.

The purpose of the document is to clarify measures that the council will expect applicants to demonstrate when applying for either of these permits so the council can determine the suitability of the applicant and the premises for a permit. Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit; and
- they have considered and are proposing suitable measures to promote the licensing objectives and they have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

### **Unlicensed family entertainment centres**

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines together with various other amusements such as computer games and "penny-pushers".

The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' that does require a premises licence because it contains both category C and D gaming machines.

Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. The council will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.

In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

Applicants should address the "Statement of Principles" when making their initial applications and at renewal time. (Permits are granted for a period of ten years.)

### **Prize gaming permits**

Section 288 defines gaming as prize gaming if 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. Prize gaming can often be seen at seaside resorts in amusement arcades where bingo is offered and the prizes are displayed.

A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permits holders must comply. 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



In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. Permits are granted for a period of ten years.

### **Supporting documents**

The council will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over)
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- An enhanced criminal record certificate. (this should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission.

A plan of the premises to which the permit is sought showing the following items:

- The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. Slot machines, penny falls, cranes)
- The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
- The positioning and types of any other amusement machines on the premises
- The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area the location of any ATM/cash machines or change machines the location of any fixed or temporary structures such as columns or pillars
- The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- The location of any public toilets in the building.

(The plan should be drawn to a scale with a key showing the items mentioned above)

### **Child protection issues**

The council 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 council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures/training for staff as regards the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school.
- Employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- Display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- Maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- Ensure all young children are accompanied by a responsible adult
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

### **Protection of vulnerable persons.**

The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons.

The council will assess these policies and procedures on their merits; however they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

## **Other miscellaneous issues**

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the interior and exterior of the premises clean and tidy
- Ensure the external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths.
- Restrict normal opening hours to 8.45am to midnight daily.
- Not permit any person who is drunk and disorderly or under the influence of drugs, to enter or remain on the premises.
- Take such steps as are reasonably practicable to eliminate the escape of noise from the premises.
- Ensure, where possible the external doors to the premises remain closed, except when in use, by fitting them with a device for automatic closure or by similar means.
- Ensure that the premises are under the supervision of at least one responsible, adequately trained person at all times the premises are open

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

Applicants may obtain an Disclosure on application to Disclosure Scotland on 0870 609 6006 or online at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

## **Authority's Details**

Applications should be submitted to: **Ashford Borough Council, Licensing Authority, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL.**

Cheques should be made payable to: **Ashford Borough Council.**

## **Appendix B: List of consultees**

- Gamcare
- Gamble Aware
- BACTA
- Association of British Bookmakers
- National Casino Forum
- Chair of Licensing, Health and Safety Committee
- Portfolio Holder for Highways, Wellbeing and Safety
- Chief Officer of Police
- South Kent Group Fire Safety Office
- Ashford Borough Council's Planning and Development Services
- Ashford Borough Council's Environmental Protection
- Ashford Borough Council's Health and Safety
- Health and Safety Executive
- Kent County Council's Specialist Children's Services
- Gambling Commission
- Her Majesty's Revenue and Customs
- Casino Gaming Limited
- Mecca Bingo
- SE Leisure
- Quality Amusements Limited
- Ivor Thomas Amusements
- Gamestec Leisure Limited
- Capital Coin Machine Limited
- Cineworld (UK) Limited
- Panbet
- Coral Racing Limited
- Ladbrokes Betting and Gaming Limited
- Done Brothers (Cash Betting) Limited
- Starbets Gamin
- Betfred
- William Hill Organisation Limited
- Shepherd Neame Limited
- Punch Taverns PLC
- Enterprise Inns PLC
- Admiral Taverns (Cygnet) Limited
- J.D. Weatherspoon
- LP Pubs and Bars Limited
- Stonegate Pub Company Limited
- The Luminar Group Limited
- Mr Withers Green
- AMF Bowling
- The Original Bowling Company
- WKM Leisure Limited
- Ashford Community Mental Health
- Signpost
- Ashford Mental Health Services
- Lenworth Clinic
- Kent County Council Education Services

- Public Health England
- Kent Community Health NHS Trust
- Southern Housing
- Housing 21
- Moat Housing

## Appendix C: Consultation responses



Licensing  
Ashford Borough Council  
Civic Centre  
Ashford  
TN23 1PL

Please ask for: Richard Taylor  
Direct Tel: 01482 590216  
Email: [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)  
Our ref: RJT / SDS / 097505.00004  
#GS504811  
Your ref:  
Date: 03 December 2015

Dear Sir/Madam,

### Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

---

Queens Gardens, Hull, HU1 3DZ T 01482 324252 F 0870 600 5984  
E [info@gosschalks.co.uk](mailto:info@gosschalks.co.uk) W [www.gosschalks.co.uk](http://www.gosschalks.co.uk) DX 11902 – Hull

A list of partners is available for inspection at the above address.  
This firm is authorised and regulated by the Solicitors Regulation Authority under number 6121

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Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

#### Working in partnership with local authorities

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

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

#### LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

#### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

#### **Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review



should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

#### **Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

#### **Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

#### **Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

#### **Specific Policy Comments**

A new section of the policy is proposed in section 11. This relates to risk assessments following the implementation of the new social responsibility and ordinary code provisions. The first paragraph in section 11 correctly identifies that operators must assess local risks to the licensing objectives and to have policies, procedures and control measures to mitigate those risks.

Section 11 contains a list of matters that the Council expect operators to take into account. This list needs to be redrafted to delete irrelevant considerations.

As stated above, the requirement is to assess local risks to the licensing objectives. Issues such as anti-social behaviour in the area, street drinking, drug dealing activities, underage drinking and graffiti/tagging do not pose any risks to the licensing objectives in the context of a Gambling Act 2005 application. Similarly, "gaming trends that may mirror days for financial payments such as paydays or benefit payments" should be removed from this list. This automatically assumes that people in receipt of benefit may be vulnerable.

Section 2 of the policy, under the heading "(1) Decision Making – General" explains the Licensing Authority's approach to the imposition of conditions. The proposed gambling policy would be assisted by a statement that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The draft policy should make it clear that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.

## Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



**GOSSCHALKS**

Licensing,  
Ashford Borough Council,  
Civic Centre,  
Ashford,  
TN23 1PL

29<sup>th</sup> December 2015

Dear Sir,

Consultation on Ashford Borough Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. Your Statement also correctly includes that the Council should not take into account any moral objections to gambling either.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6<sup>th</sup> April 2016) following the consultation completion and are pleased to see this information included.

Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed.

We politely note that on page 10 of your draft document, you list a wide range of locations which should be considered by operators during the completion of their risk assessments. Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools as an example, causes harm to the licensing objectives. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that underage gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges as well as the other various locations listed within your risk assessment listings and no evidence whatsoever that they cause problems. We do appreciate that the licensing board have flexibility in this regard when granting licences but caution against any inference of a link between such locations and problem gambling.



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a  company



1700+ shops



mobile



coral.co.uk



0800 242 232

For your information, we have recently been working with Westminster City Council in agreeing a suitable format of risk assessments and are looking to use this across our estate. Naturally, if these do not meet the level desired by the local Councils involved, we would adjust to suit.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'John Liddle', written in a cursive style.

John Liddle  
Director of Development – Coral Retail



## Appendix D: Summary of consultation responses

Consultee Name	Relevant Policy Reference	Consultee's Comments	Officer Comment	Proposed Amendment to Policy
Coral Racing Limited	Overall policy	Coral Racing are broadly supportive of the policy and recognise the requirement to supply risk assessments with future applications and variations (from 06/04/16).	Positive feedback	No amendment
Coral Racing Limited	Risk Assessments (Section 11, page 10 of the draft policy)	Additional local risk assessments should be a) to assess specific <u>risks</u> to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard <u>control measures</u> are needed.	By adding the word specific before risks this will mitigate the point raised. The insertion of the word "specific" keeps it pertinent to the local risks as requested, so no reference to going beyond the standard control measures is needed.	<b>Changed section on page 10 to add the word "specific" before "local risks to the licensing objectives."</b>
Coral Racing Limited	Risk Assessments (Section 11, page 10 of the draft policy)	Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools as an example causes harm to the licensing objectives. Coral's general	Each application will be judged on its merits and any specific risks to the licensing objectives will be identified in the risk assessment, along with the expected control measures. By amending the wording, the points	<b>Change the wording on page 10 to state:</b>  <b>Urban setting,</b>  <b>Range of facilities in proximity to the licensed premises.</b>

		experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges as well as the other various locations listed within your risk assessment listings and no evidence whatsoever that they cause problems.	raised by the consultee can be addressed.	<b>Matters relating to children and young persons.</b>
Gosschalks Solicitors representing the Association of British Bookmakers (ABB)	Overall policy	The Association of British Bookmakers is broadly supportive of the policy and fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB recognises that operators must assess local risks to the licensing objectives and to have policies, procedures and control measures to mitigate those risks.	Positive feedback	No amendment
ABB	Risk Assessments  (Section 11, page 10 of the draft	Section 11 contains a list of matters that the council expect operators to take into account. This list needs to be redrafted to delete irrelevant	Matters relating to anti-social behaviour in an area should be dealt with using other legislation.	<b>Remove:</b>  <b>Known problems in the area such as problems</b>

	policy)	considerations. Issues such as anti-social behaviour in the area, street drinking, drug dealing activities, underage drinking and graffiti/tagging do not pose any risks to the licensing objectives in the context of a Gambling Act 2005 application. Similarly, “gaming trends that may mirror days for financial payments such as paydays or benefit payments” should be removed from this list. This automatically assumes that people in receipt of benefit may be vulnerable.	Remove wording linking with paydays or benefit payments.	<p><b>arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.</b></p> <p><b>Gaming trends that may mirror days for financial payments such as pay days or benefit payments</b></p>
ABB	<p>Premises Licences</p> <p>(i) Decision making – general</p> <p>(Page 15 of the draft policy)</p>	Section 2 of the policy, under the heading “(I) Decision Making – General” explains the Licensing Authority’s approach to the imposition of conditions. The proposed gambling policy would be assisted by a statement that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The draft policy should make it clear that additional conditions will only be imposed	Agreed.	<p><b>Add:</b></p> <p><b>The starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions and any additional conditions must be evidence based.</b></p>



		where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.		
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