



# CHELTENHAM

BOROUGH COUNCIL

## STATEMENT OF PRINCIPLES

### GAMBLING ACT 2005



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This Policy was approved on xx.

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## **PART A**

### **1. The Licensing Objectives**

In exercising most of their functions under the Act 2005 (“the Act”), licensing authorities must have regard to the licensing objectives as set out in Section 1 of 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.

It should be noted that the Commission (“Commission”) has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

Cheltenham Borough Council (“the council”) is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives, and
- in accordance with the Authority’s Statement of Licensing Policy

### **2. Introduction**

The council is required by the Act to publish a Statement of Principles (“Statement”) which they propose to apply when exercising their functions. This Statement must be published at least every three years. The Statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The Statement must be then republished.

The council will consult widely upon this Statement before finalising and publishing. A list of those persons who will be consulted is provided in Appendix A. The Act requires that the following parties are consulted by licensing authorities:

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

The council recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of all the responsible authorities, local businesses and residents.

In developing a Statement that will deliver the licensing objectives locally, consultation has taken place in accordance with the revised Code of Practice and the Cabinet Office Guidance on consultations by the public sector.

Consultation took place between **X** and **X**.

The Statement was considered for approval at a meeting of the Full Council on x and will be published via our website [www.cheltenham.gov.uk/licensing](http://www.cheltenham.gov.uk/licensing) on or by 1st January 2016. Copies will be placed in the public libraries of the area as well as being available in the Council Offices.

Should you have any comments as regards this Statement please send them via email or in writing to the Licensing Section:

Address: Licensing Section, Municipal Offices, Promenade, Cheltenham, GL50 9SA

Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

It should be noted that this 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 Act.

### 3. Area Profile

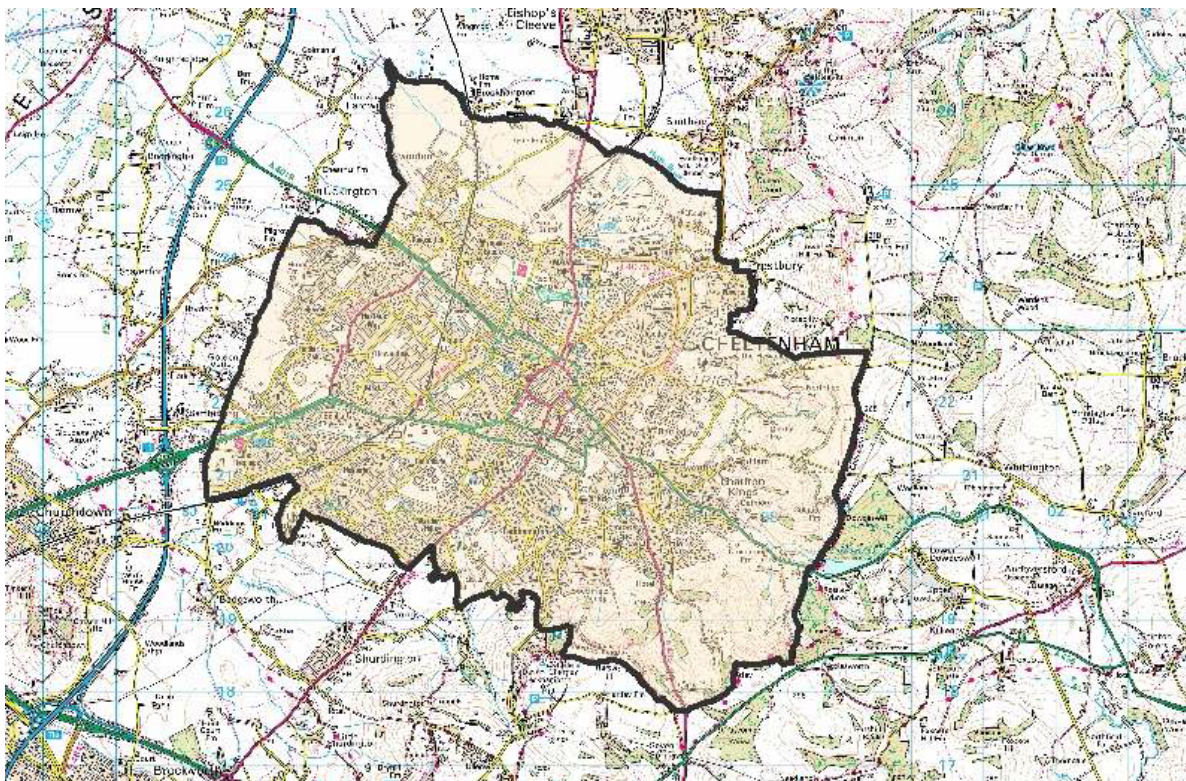
#### The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 114,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

#### Demography

The population is approximately 114,000, and these figures will continue to rise over the next 20 years.



At the time of writing in 2015, the borough had 18 licensed betting premises, 1 track licence and 1 licensed Adult Gaming Centre.

#### **4. Declaration**

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

#### **5. Responsible Authorities**

Responsible Authorities are public bodies that must be notified of applications and who are entitled to make representations to the council if they are relevant to the licensing objectives.

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

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

In accordance with the suggestion in the Commission's guidance for local authorities they designated the Gloucestershire Safeguarding Children Board for this purpose.

The contact details of all Responsible Authorities are attached as Appendix B.

#### **6. Interested Parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

"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 Council which issues the licence or to which the application 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 council 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:

Each case will be decided upon its merits. The council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Commission's guidance for local authorities.

It will also consider the Commission's guidance that "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected.

Likewise, parish councils likely to be affected, will be considered to be interested parties.

Other than these however, the council will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. For more information, please refer to the adopted Licensing Committee's adopted "Probity in licensing".

## **7. Exchange of Information**

Licensing authorities are required to include in their Statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in schedule 6 to the Act.

The principle that the council 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 council will also have regard to any guidance issued by the 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.

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

## **8. Enforcement**

Licensing authorities are also required 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 council's principles are that:

It will be guided by the Commission's guidance for local authorities and will endeavour to be:

**Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;

**Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;

**Consistent:** rules and standards must be joined up and implemented fairly;

**Transparent:** regulators should be open and keep regulations simple and user friendly; and

Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Commission's guidance for local authorities, the council will endeavour to avoid duplication with other regulatory regimes so far as possible.

The council has adopted and implemented an inspection programme based on:

- The Licensing Objectives
- Relevant Codes of Practice
- Guidance issued by the Commission, in particular at Part 36
- The principles set out in this Statement of Principles

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

Bearing in mind the principle of transparency, the council's enforcement/compliance protocols/written agreements are available upon request to the Licensing Section.

## 9. Council Functions

The council has a duty under the Act to licence premises where gambling is to take place and to licence certain other activities.

'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery. In particular the council will be responsible for:

- The licensing of premises where Activities are to take place by issuing *Premises Licences*.
- Issue *Provisional Statements*.
- Regulate *Members' Clubs and Miners' Welfare Institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.
- Issue *Club Machine Permits to Commercial Clubs*.
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*.
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Register *small society lotteries* below prescribed thresholds.
- Issue *Prize Gaming Permits*.



- Receive and endorse *Temporary Use Notices*.
- Receive *Occasional Use Notices*.
- Provide information to the Commission regarding details of licences issued (see section above on 'Information Exchange').
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Commission via operating licences.

A table outlining how the council will delegate its functions under this Act is attached at Appendix C.

## PART B

### PREMISES LICENCES : CONSIDERATION OF APPLICATIONS

#### 1. General Principles

Premises licences will be subject to the requirements 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 council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives, and
- in accordance with the Authority's Statement of Licensing Policy

It is appreciated that as per the Commission's guidance "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion.

***Meaning of "premises"*** – In the Act, "premises" is defined as including "any place".

Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place.

The council will however pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

The council takes particular note of the Commission's guidance which states that:

"Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- 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.

**The Commission's relevant access provisions for each premises type are reproduced below:**

### **Casinos**

- The principal access entrance to the premises must be from a 'street' (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage whether a thoroughfare or not)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

### **Betting Shops**

- Access must be from a street or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Commission's guidance contains further guidance on this issue, which this authority will also take into account in its decision-making.

**Premises “ready for gambling”** - The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the council can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at a premises, the council will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling.
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that the council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

**Location** – Demand related objections and issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can.

As per the Commission’s guidance, the council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**Planning** – The council has a duty to only take into consideration relevant matters, i.e. those related to gambling and the licensing objectives. An example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

It notes in particular from the Commission’s guidance:

When dealing with a premises licence application for finished buildings, the council should not take into account whether those buildings 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 2005 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.

**Duplication with other regulatory regimes** – The council will seek to avoid any duplication with other statutory / regulatory systems where possible.

**Licensing Objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the council has considered the Commission's guidance and some comments are made below:

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - The council is aware that the Commission will be taking a leading role in preventing gambling from being a source of crime. The Commission's guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime the council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The council is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - The council has noted that the Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regards to tracks which is explained in more detail in the 'tracks' section below - page 15.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - The council has noted the Commission's guidance that states this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The council will therefore consider, as suggested in the guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrance/machines, segregation of areas etc.

The council will also make itself aware of the Codes of Practice which the Commission issues as regards this licensing objective.

As regards the term "vulnerable persons" it is noted that the Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs".

The council will consider this licensing objective on a case by case basis. A list of organisations set up to give help and advice about problem gambling is attached as Appendix D.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence

types below. The council will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

The council will consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's guidance.

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

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

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

The council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Commission's guidance, the council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the council 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.

**Door Supervisors** - The Commission advises in its guidance that if a council is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons), it may require that

the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

### **Sharing local Risk Assessments**

The new code provision of 10.1.2 under the revised Licence Condition Codes of Practice from the Commission will come into force in April 2016. Under this provision it states:

*Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licenced premises, or otherwise on request.*

In accordance with the new LCCP requirement, the council will expect licensees to submit their local risk assessment when making an application in accordance with the code of practice's requirements.

## **2. Adult Gaming Centres**

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the council that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

The council may consider measures to meet the licensing objectives such as:

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

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

## **3. (Licensed) Family Entertainment Centres**

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the council, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The council may consider measures to meet the licensing objectives such as:

- CCTV

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

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

The council will, as per the Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

#### **4. Casinos**

*No Casinos resolution* - The council has not passed a 'no casino' resolution under Section 166 of the Act 2005, but is aware that it has the power to do so. Should the council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council.

#### **5. Bingo Premises**

The council notes that the Commission's guidance states:

"Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. "

A holder of a Bingo Premises Licence may make available for use, a number of Category B machines not exceeding 20% of the total number of gaming machines which are available for use.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

#### **6. Betting Premises**

*Betting machines* - The council will, in accordance with the Commission's guidance take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wants to offer.



## 7. Tracks

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

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

The council may consider measures to meet the licensing objectives such as:

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

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

*Gaming machines* – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

*Betting machines* – The council will, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### **Applications and plans**

The Act requires applicants to submit plans of the premises with their application, in order to ensure that the council has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the council to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances,

where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

## **8. Travelling Fairs**

The council is responsible for deciding 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.

This council 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. The council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

Developers may wish to apply to the council for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Act provides for a person to make an application to the council for a provisional statement in respect of premises that they:

- expect to be constructed;
- expect to be altered; or
- expect to acquire a right to occupy.

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

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Commission (except in the case of a

track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the council 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 objectors at the provisional statement stage;
- 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 submitted with the application. This must be a substantial change to the plan and this council notes that it can discuss any concerns it has with the applicant before making a decision.

## **10. Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice issued by the Commission;
- in accordance with any relevant guidance issued by the Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's Statement of Principles.

The request for the review will also be subject to the consideration by the council as to whether the request is frivolous, vexatious, or whether it is substantially the same as previous representations or requests for review.

The council can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the council, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Council, who will publish notice of the application within 7 days of receipt.

The council must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the council should take any action in relation to the licence. If action is justified, the options available to the council are:

- (a) add, remove or amend a licence condition imposed by the Council;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the council must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular the council may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the council must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Review and Customs.

## PART C

### PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

#### 1. Unlicensed Family Entertainment Centre Gaming Machine Permits

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the council for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

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

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 efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. The council will also expect, as per Commission guidance, that applicants demonstrate:

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

#### 2. (Alcohol) Licensed Premises Gaming Machine Permits (Schedule 13 paragraph 4(1))

##### **Automatic entitlement: 2 machines**

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 council. The council 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 council, that a fee has been provided and that any relevant code of practice issued by the 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.

##### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, it needs to apply for a permit and the council must consider that application based upon the licensing objectives, any

guidance issued by the Commission issued under Section 25 of the Act 2005, and “such matters as they think relevant”.

The council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the council that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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

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

### **3. Prize Gaming Permits**

The Act states that a council may “prepare a Statement of Principles that they propose to apply in exercising their functions under this Schedule” and “may, in particular, specify matters that the council propose to consider in determining the suitability of the applicant for a permit”.

This council expects that an applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

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

It should be noted that there are conditions in the Act by which the permit holder must comply, but that the council 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.

#### **4. 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 (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Commission guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".

The Commission guidance also notes 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.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the 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 grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

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

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

#### **5. Temporary Use Notices**

Temporary Use Notices ("TUN") allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN, according to the Commission, would include hotels, conference centres and sporting venues.

The council can only grant a TUN to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUN, and at the time of writing this Statement the relevant regulations (SI no.3157: The Act 2005 (Temporary Use Notices) Regulations 2007) state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards TUNs. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Commission guidance to Licensing Authorities. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”.

In considering whether a place falls within the definition of “a set of premises”, the council needs to look at, amongst other things, the ownership/occupation and control of the premises.

This council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission’s guidance.

## **6. Occasional Use Notices**

The council 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 council will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

The council will notify the Commission of any notices made under this provision and share with them any relevant information.



## CONSULTEES

### Trade Organisations & Licence Holders

Current Licence Holders

Association of British Bookmakers Ltd (ABB)

British Amusement Catering Trade Association (BACTA)

The British Association of Leisure Parks, Piers & Attractions Limited (BALPA)

British Beer and Pub Association

British Casino Association (BCA)

Business in Sport and Leisure

Casino Operators' Association

The Bingo Association

### Specialist Licensing Solicitors (National and Local)

Blake Lapthorn

Bond Pearce

Gosschalks

Kuit Stewart Levy

Poppleston Allen

Woods Whur

### Other Consultees

Cheltenham Borough Council Members

Cheltenham Borough Council Licensing Committee

Parish Councils

Responsible Authorities

The People of Cheltenham

Cheltenham Business Partnership

Organisations offering help and advice to problem gambling

## CONTACT DETAILS FOR RESPONSIBLE AUTHORITIES

### COUNCIL LICENSING

Licensing Section  
Cheltenham Borough Council  
Promenade  
Cheltenham  
GL50 9SA

Telephone: 01242775200  
Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

### LOCAL PLANNING AUTHORITY

Planning Enforcement  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Telephone: 01242 264138  
Email: [builtenvironment@cheltenham.gov.uk](mailto:builtenvironment@cheltenham.gov.uk)

### THE COMMISSION

Victoria Square House  
Victoria Square  
BIRMINGHAM  
B2 4BP

Telephone: 0121 230 6500  
Fax: 0121 233 1096  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### GLOUCESTERSHIRE CONSTABULARY

Licensing Unit  
Community Engagement Dept.  
Police HQ  
No1 Waterwells  
Quedgeley  
Gloucester  
GL2 2AN

Telephone: 01452 754482  
Email: [Licensing@Gloucestershire.pnn.police.uk](mailto:Licensing@Gloucestershire.pnn.police.uk)

The main Police switchboard number is 0845 090 1234.

**GLOUCESTERSHIRE FIRE AND RESCUE**

Chief Fire Officer  
Fire Service Headquarters  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 753333  
Fax: 01452 753304  
Email: [fire@glosfire.gov.uk](mailto:fire@glosfire.gov.uk)

**GLOUCESTERSHIRE ACPC**

Gloucestershire Safeguarding Children Board  
Room 128  
1<sup>st</sup> Floor, Block 4  
Gloucestershire County Council  
Shire Hall  
Westgate Street  
Gloucester GL1 2TG

Email: [mail@gscsb.org.uk](mailto:mail@gscsb.org.uk)

**HM REVENUE & CUSTOMS**

Betting and Gaming  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

Telephone 0141 555 3339  
Email [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

**For relevant premises e.g. vessels, the following may also be Responsible Authorities:**

**SOUTH WALES AND BRITISH WATERWAYS**

Canal & River Trust  
The Dock Office  
Commercial Road  
Gloucester  
GL1 2EB

E-mail [enquiries.southwalessevern @canalrivertrust.org.uk](mailto:enquiries.southwalessevern@canalrivertrust.org.uk)

**ENVIRONMENT AGENCY**

Riversmeet House  
Newtown Industrial Estate  
Northway Lane  
Tewkesbury  
Gloucestershire  
GL20 8JG

**SECRETARY OF STATE** (Note in practice, the Secretary of State for Transport who  
DCMS acts through the Maritime and Coastguard Agency)  
2-4 Cockspur Street  
London  
SW1Y 5DH

Telephone: 020 7211 6200  
email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

## TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**LIST OF ORGANISATIONS THAT GIVE HELP AND ADVICE ABOUT PROBLEM GAMBLING**

The following organisations are working to tackle problem gambling and may be able to help individuals and/or organisations.

Responsibility in Gambling Trust (RIGT)

10 Brick Street

London

W1J 7HQ

Tel: 207 518 0023

Fax: 207 518 0174

Email: [enquiries@rigt.org.uk](mailto:enquiries@rigt.org.uk)

Citizens Advice

Gloucester and District Citizens Advice Bureau

75 - 81 Eastgate Street

Gloucester

GL1 1PN

Tel: 01452 527202

Gam Anon

PO Box 5382

London

W1A 6SA

National Help Line: 08700 50 88 80

Midlands 0121 233 1335

Gamblers Anonymous (UK)

Birmingham 0121 233 1335

Gam Care

2nd Floor

7-11 St John's Hill

London

SW11 1TR

Tel: 020 7801 7000

Fax: 020 7801 7033

Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

Gordon House Association

43-47 Maughan Street

Dudley

West Midlands

DY1 2BA

Tel: 01384 241 292

Email: [help@gordonhouse.org.uk](mailto:help@gordonhouse.org.uk)

NCH Children's Charity  
85 Highbury Park  
London  
N5 1UD  
Tel: 020 7704 9037  
Fax: 020 7704 7134

NHC South West  
Horner Court  
637 Gloucester Road  
Horfield  
Bristol  
BA7 0BJ  
Tel: 01179 354 440  
Fax: 01179 512 470

National Debt Line  
Tel: 0808 808 4000

## APPENDIX E

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
A	Unlimited	Unlimited	Regional Casino
B1	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
B2	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, Adult gaming centre and all of the above
B3A	£2	£500	Members' club or Miners' welfare institute only
B4	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
C	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.
D money prize	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
D non-money prize (other than crane grab machine)	30p	£8	All of the above.
D non-money prize (crane grab machine)	£1	£50	All of the above.
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)	All of the above.