

# Statement of Gambling Licensing Policy

2025 - 2028

**Author:** Licensing and Compliance Manager

**Contact:** [licensing@luton.gov.uk](mailto:licensing@luton.gov.uk)

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# 1. Introduction

Luton Council is the licensing authority for the Borough of Luton under the Gambling Act 2005 ('the act').

The act requires the council to publish a Statement of Licensing Policy every three years, containing the principles it intends to apply when exercising its functions under the act. The council will keep the policy under constant review and will consult statutory consultees as set out in the act and any other person who the council deems appropriate on any proposed new or revised policy.

This statement sets out the council's general approach to the exercise of its functions. It does not override the right of any person to make an application under the act and to have that application considered on its own merits. Nor does it undermine the right of any responsible body or interested party to make representations on an application or to seek a review of a licence.

In producing this statement the council has had regard to the licensing objectives, the guidance issued by the Gambling Commission and responses from those consulted on this statement.

## 2. Licensing authority functions

The council is responsible under the Gambling Act 2005 for:

- issuing premises licences for premises where gambling activities are to take place
- issuing provisional statements
- regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- issuing club machine permits to commercial clubs
- granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receiving notifications from alcohol licensed premises (under the licensing act 2003) of the use of two or fewer gaming machines
- granting licensed premises gaming machine permits for premises licensed to sell or supply alcohol for consumption on the licensed premises, under the licensing act 2003, where more than two machines are required
- registering small society lotteries below prescribed thresholds

- issuing prize gaming permits
- receiving and endorsing temporary use notices
- receiving occasional use notices
- providing information to the Gambling Commission regarding details of licences issued (see section on 'exchange of information')
- maintaining registers of the permits and licences that are issued under these functions

**NB:** The council will not be involved in licensing remote gambling - this is dealt with by the Gambling Commission via Operator Licences.

### 3. Licensing Objectives

It is the duty of the council to carry out its licensing functions under the act with a view to promoting the licensing objectives. 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

The council notes that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

This council is aware that, in accordance with section 153 of the act, when 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:

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

The council are able to request any information from an operator they may require to make licensing decisions. The Gambling Act 2005 requires a minimum level of information to be provided, but the Gambling Commission state in their guidance to licensing authorities that this does not preclude reasonable requests from licensing authorities for any additional information they may require to satisfy themselves their decisions accord with the licensing objectives and Codes of Practice.

## 4. Background to Luton

Luton has a population of 227,000 people for 2024, making it one of the largest towns in South East England. Luton's people come from a wide range of ethnic backgrounds and the town is proud of its cultural diversity. Luton has a thriving university, an international airport and excellent transport links to many of the country's major cities.

Luton is densely populated and is in a conurbation with the neighbouring towns of Houghton Regis and Dunstable.

As at April 2024 the numbers of premises issued with licences, permits or registrations are as follows:

- 2 Casino Licences
- 2 Bingo licensed premises
- 25 Bookmakers and Betting shops
- 0 Family Entertainment Centre
- 4 Adult Entertainment Centres
- 2 Unlicensed Family Entertainment Centre Permit
- 51 Alcohol Premises with notifications or permits
- 11 Registered Clubs (Club Gaming or Club Gaming Machine Permits)
- 25 Small Society Lottery Registrations

## 5. Local area profile and risk assessments

In February 2015 the Gambling Commission published a revised version of the Licence Conditions and Codes of Practice which included:

- a new social responsibility code provision 10.1.1 relating to the assessment of local risk
- a new ordinary code provision 10.1.2 relating to shared local risk assessments

The Local Area Profiling came into force on 6<sup>th</sup> April 2016, a separate document has been made available.

The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the licensing authority in certain circumstances in May 2016.

We require licensees to undertake a local risk assessment for each premises when applying for a grant or variation of the premises licence and have policies, procedures and control measures in place to mitigate those identified risks.

In assessing risks, licensees must have regard to the council's licensing policy and must be reviewed to take account of significant changes in local circumstances. The council expects applicants to have a good understanding of the area in which they either operate, or intend to operate.

We expect the operators to share their risk assessment with the authority on application for a grant or variation or on request.

On determining applications and reviews, our council will have regard to the proximity of gambling premises to, for example, schools, vulnerable adult centres or to residential areas with a high concentration of families with children (the list is not exhaustive) however, proximity alone will not be a sufficient ground for refusal and each application will be determined on its own merit.

The guidance recommends authorities complete an assessment of the local area as a means to identify areas of possible concern which will be reviewed and updated.

It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.

Our Council will engage with the responsible authorities and other organisations in order to identify and increase awareness of local risks and improved information sharing.

The Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.

The licensing authority expects applicants to keep a copy of the local area risk assessment on the licensed premises, ensure all staff have seen the risk assessment and been trained in respect of its content, and to be able to produce the risk assessment on request by an authorised officer of the council, a Police Officer or the Gambling Commission.

The risk assessment should demonstrate the applicant has considered, as a minimum:

- local crime statistics
- any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage

- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons for example drug and alcohol addictions
- whether there is a prevalence to street drinking in the area, which may increase the risk of vulnerable persons using the premises
- the type of gambling product or facility offered
- the layout of the premises
- the external presentation of the premises
- the location of nearby transport links and whether these are likely to be used by children or vulnerable persons
- the customer profile of the premises
- staffing levels
- staff training, knowledge and experience
- whether there is any indication of problems with young person's attempting to access adult gambling facilities in that type of gambling premises in the area

## 6. Gambling prevalence and problem gambling

The Gambling Commission released the results for the Gambling Survey for Great Britain (GSGB) in September 2024 which gathered the latest data on gambling behaviours. A nationally representative sample of 5,191 adults aged 18 and over were interviewed during the period January 2024 and April 2024 and the results detailed in the report.

The key facts are:

- Overall participation in any gambling activity (in the past 4 weeks) was 48 percent, the same proportion that was observed throughout 2023.
- Over one fifth of respondents (21 percent) only took part in lottery draws (either National Lottery or other charity lottery draws) in the past 4 weeks. If we include these respondents who have only taken part in lottery draws, gambling participation was 27 percent.
- Overall gambling participation is highest for males aged 45 to 54 years old. However, removing lottery draw only players, shifts the age profile downwards, resulting in males 35 to 44 having the highest gambling participation rates.
- The online gambling participation rate (in the past four weeks) was 38 percent, which falls to 16 percent when lottery draw only players are removed. This highlights the large proportion of online players that gamble on lottery draws.
- The in-person gambling participation rate (in the past four weeks) was 29 percent. Excluding lottery draw only players, the participation rate was 18 percent.

- The most popular gambling activities (in the past four weeks) were lotteries, including National Lottery draws (32 percent) and other charity lottery draws (16 percent). Following lotteries, the next 3 most popular activities were scratchcards (14 percent), betting (9 percent) and online instant win games (8 percent). This is consistent with data seen throughout 2023.
- The most popular reasons given as to why respondents gambled was 'for the chance to win big money' and 'because it's fun'.

(The next quarterly publication will be released in December 2024)

The Gambling Commission states:

'Problem gambling' means gambling to a degree that compromises, disrupts or damages family, personal or recreational pursuits.

Gambling-related harms are the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society. These harms impact on people's resources, relationships and health.

Negative effects can include loss of employment, debt, crime, breakdown of relationships and deterioration of physical and mental health. At its worst, gambling can contribute to loss of life through suicide.

Harms can be experienced by those who gamble themselves, but can also affect their children, partners, wider families and social networks, employers, communities and society as a whole.

The National Gambling Helpline is operated by Gamcare, offers confidential advice, support and information on problem gambling. Gamcare is largely funded by Gamble Aware who receives donations from the gambling industry.

## 7. Consultation

This policy has been drawn up after consultation with the following organisations and individuals:

1. The Gambling Commission
2. Bedfordshire Police
3. National Casino Forum
4. The Association of British Bookmakers
5. The Bingo Association
6. BACTA - British Amusement Catering Trade Association
7. Luton & Bedfordshire Fire & Rescue Service
8. Safer Luton Partnership
9. Religious Groups

10. Luton Churches Education Trust
11. Existing Casino, FEC, Bingo, Betting shops and Lottery licence/ permit holders
12. Local Residents – through advertising and local media
13. Disability resource centre
14. LBC Social Justice Unit
15. LBC Planning
16. LBC Environmental Health
17. LBC Environmental Protection
18. LBC Social Services (Children & Family Services)
19. HM Revenues and Customs
20. Luton Magistrates Court
21. Local Safeguarding Children Board
22. Public Health
23. The Chamber of Commerce
24. Licensing Committee
25. Gam Care
26. Citizen's Advice Bureau
27. Luton BID (Business Improvement District)
28. Luton Safe
29. Trade unions
30. Voluntary and community groups working with children and young people

The consultation took place between 22<sup>nd</sup> July 2024 and 21<sup>st</sup> August 2024 in accordance with HM Government Consultation Principles, which is available on the GOV.UK website [Consultation Principles Guidance](#)

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Service, Luton Borough Council, Town Hall, George Street Luton LU1 2BQ.

This policy was approved at a meeting of the Full Council on 12<sup>th</sup> November 2024 and was published on the Council's website on 31<sup>st</sup> January 2025. Any comments on this policy statement should be sent by e-mail or letter to the Licensing Service, full contact details are contained in Section 21 of this document.

It should be noted that this Statement of Gambling Licensing Policy 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.

Following adoption of this policy, the council will keep it under constant review. The Director of Public Protection will maintain an 'Issues Log' in which matters pertaining to this policy will be recorded. Any interested party or responsible body may raise an issue with the council in relation to the policy and the Director of Public Protection will determine whether the issue is relevant to this policy and if so, whether it requires an immediate review of the current policy or to be noted in an 'Issues Log' for consideration on a future review of the policy. In addition, when the policy is reviewed, either in accordance with the statutory requirements or because relevant issues have arisen, the council will consult with the statutory consultees and with any other consultees as deemed appropriate.

## 8. General principles

In carrying out its licensing functions, the council will have regard to the act, the statutory guidance and this policy. It will also carry out its functions with a view to promoting the licensing objectives.

The council will inform its residents and other interested bodies of applications for the grant, transfer, variation and review of premises licences through the maintenance of a public register of all applications received. This information will be available on the council's website and details communicated to the ward councillors. In addition, the council will inform those residents and other interested bodies which it considers are likely to be affected by applications for the grant, variation and review of licences by supplying them with details of the application.

Every application will be considered on its own merits. All relevant representations will be considered when determining an application, except those that the council considers are frivolous or vexatious. Representations should be based on the licensing objectives (see page 4).

In determining whether to grant a premises licence the council will not have regard to the expected demand for the facilities which it is proposed to provide. Each application will be considered on its merits without regard to demand.

The council will seek to avoid any duplication with other statutory / regulatory systems where possible. For example, the council will not consider whether a licence application is likely to be awarded consent under planning or building regulations.

The council will however listen to, and consider carefully, any concerns about conditions which licensees will not be able to be met due to planning restrictions, should such a situation arise.

## 9. Responsible Authorities and Interested Parties

Where a responsible authority or interested party makes a relevant written representation in respect of an application for a premises licence, the council must hold a hearing.

### **Responsible Authorities**

The responsible authorities under the act are:

- The Council as Licensing Authority
- The Gambling Commission
- The Chief Officer of Bedfordshire police
- Bedfordshire Fire and Rescue Authority
- The Council's Planning department
- The Council's Environmental Protection department
- Her Majesty's Revenue Customs
- Luton Borough Council Safeguarding and Quality Assurance Team

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 the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the 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 Gambling Commission's guidance to licensing authorities, this authority designates Luton Council Safeguarding and Quality Assurance Team for this purpose.

The contact details of the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [Gambling act 2005 webpage](#).

### **Interested Parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. A person is an interested party in relation to an application for a premises licence if, in the opinion of the council they:

- a) live sufficiently close to the premises likely to be affected by the authorised activities

- b) have business interests that might be affected by the authorised activities
- c) represent persons who satisfy paragraph (a) or (b)”

In deciding whether a person is an interested party the council will apply the following principles:

Each case will be decided upon its merits, and in accordance with Gambling Commission guidance. In particular, in deciding whether a person ‘lives sufficiently close to the premises to be likely to be affected by the authorised activities’, the council will have regard to:

- the size of the premises (for example, larger premises may affect people over a wider area compared to smaller premises offering similar activities)
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises)
- the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises

‘Business interests’ will be given the widest possible interpretation, including partnerships, charities, faith groups and medical practices.

In order to avoid doubt, whilst individuals can make representations themselves in their own right, the council will also accept representations from organisations such as residents and tenants associations, trade associations, trade unions and professional advisors such as solicitors, barristers and consultants as capable of representing interested parties where they are satisfied that the interested party has asked for representation.

The council regards residents’ and tenants’ associations as representing persons living sufficiently close to the premises and trade associations and trades unions as representing those having business interests that might be affected by the authorised activities.

The council will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 for example, lives sufficiently close to the premises likely to be affected by the activities being applied for.

Those democratically elected, such as Councillors and MPs may represent persons living close to or having businesses likely to be affected by the authorised activities.

Other than these persons, the council may seek written evidence that a person ‘represents’ someone in one of these categories. A letter from one of these persons, requesting the representation is sufficient.

# 10. Premises Licences

## **Premises Licences - General**

Where an individual or company proposes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, that individual or company will need to apply to the council for a premises licence.

Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are 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 appreciates that, as stated in the Gambling Commission's Guidance to Licensing Authorities 'moral objections to gambling are not a valid reason to reject applications for premises licences'.

A premises licence is one which authorises premises (which are defined in the act as 'any place') to be used for:-

- The operation of a casino (a 'casino premises licence')
- The provision of facilities for playing bingo (a 'bingo premises licence')
- Making Category B gaming machines available for use (an 'adult gaming centre premises licence')
- Making Category C gaming machines available for use (a 'family entertainment centre premises licence')
- The provision of facilities for betting (a 'betting premises licence')

In the act, 'premises' is defined as including 'any place'. Section 152 therefore prevents more than one premises licence applying to any place. However, a single building may 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. The council will pay particular attention where 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.

Our council is aware of the Gambling Commission Guidance to Licensing Authorities on the matter of multiple licences in a single premises.

Our council will 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 it will 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 council will consider the following and any other relevant factors in making its decision, depending on all the circumstances of the case.

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

Matters the council may not take into account include:

- the expected demand for gambling premises in the area
- planning or building law restrictions
- moral or ethical objections to gambling as an activity
- dislike of gambling
- a general notion that gambling is undesirable

The council will take decisions in accordance with the Gambling Commission's Guidance and Licence Conditions and Codes of Practice and will have regard to the advice it issues. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Gambling Commission.

Applicants for new premises licence or variations to existing ones should be clear that the premises are intended to be used for the primary gambling activity proposed.

## **Access**

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under 18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.

The Gambling 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 (including any bridge, road, lane, footway, subway, square, court, alley or passage)
- 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 another premises which holds 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 unless that shop is in itself a betting premises, 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

## 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

## Plans

The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state that a plan to accompany an application for a premises licence must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel which are included in the premises
- the location of each point of entry to exit from the premises, including in each case a description of the place from which entry is made or to which exit leads

The regulations also state that other than in respect of a track, the plan must show 'the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. The council may, however, consider that these minimum requirements are insufficient to satisfy them in respect of the licensing objectives at tracks, Gambling Commission guidance, Codes of Practice or its own Statement of Principles. In such cases, the council may ask for such additional information to be shown on the plan as it deems necessary to enable them to discharge its duties effectively. Information shown on the plan that is not required by the regulations will not form part of the premises licence and will only be used by the council to help it make a considered decision on the application.

If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a fresh application under s.159 or to seek an amendment to the licence under s.187 of the Gambling Act 2005. If the changes are substantial, this may, in the opinion of the council, render the premises different to those to which the licence was granted. In such cases, variation of the licence under s.187 would not be possible and an application for a new licence would be required under s.159.

## **Split Premises**

The Gambling Commission's guidance states that a building can, in principle, be divided into more than one premises and 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 reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

The Gambling Commission state they do not 'consider that areas of a building that are artificially separated, for example by ropes or moveable partitions can properly be regarded as separate business.'

Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the council will need to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of a single premises.

When considering proposals to divide a building into separate premises, the council must be satisfied that the form of separation between the premises is appropriate. The separation must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.

It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.

In considering applications, the council must be satisfied that the proposals to divide buildings are compatible with the mandatory conditions relating to access between premises as stated in The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

### **Premises 'ready for gambling'**

The council will only grant a premises licence where it can be satisfied the premises 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, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are 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**

The council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. 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 following further consultation.

### **Duplication with other regulatory regimes**

The council seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. In determining applications the council will take into consideration all relevant matters and will not take into consideration any irrelevant matters, i.e. those which are not related to gambling and the licensing objectives. The likelihood of an applicant obtaining planning permission or building regulations approval for their proposal is an irrelevant consideration which will be disregarded by the council.

When dealing with a premises licence application for finished buildings, the council will not take into account whether those buildings have or comply with the necessary planning or building consents. It will however consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

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.

The council will aim to permit the use of premises for gambling in so far as it thinks it:

- (a) in accordance with any relevant Code of Practice under s24
- (b) in accordance with guidance issued by the Gambling Commission
- (c) reasonably consistent with the Licensing Objectives (subject to (a) and (b))
- (d) in accordance with this statement of policy (subject to (a) – (c))

With regard to the licensing objectives, the council will apply the following principles:

**a) 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 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.

Where appropriate the council will consider controls to prevent premises becoming a source of crime, for example, including a condition requiring door supervisors.

**b) Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission's guidance states that this will generally be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. Operating and personal licences are the responsibility of the Gambling Commission rather than the council. The council will have regard to any future guidance from the Gambling Commission on this issue.

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

Generally, the intention of the act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult – only environments. In assessing risks, relevant steps for operators may include staffing levels, supervision, the structure and layout of the premises to enable clear sight lines, the use of floor walkers and CCTV.

'Vulnerable persons' are not defined but the Gambling Commission 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.

We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. Restrictions on advertising may also be considered to ensure

gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Gambling Commission has issued a code of practice concerning access to casino premises by children and young persons, which is part of the Licence Conditions and Codes of Practice. Adherence to the code is a condition of the premises licence.

On determination of a premises licence or permit, Luton Council will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises such as pubs, clubs, betting tracks etc.

We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable persons, will balance its considerations against the overall principles of aiming to permit the use of premises for gambling.

The licensing authority is required to state a body which is designated for an area in which the premises are wholly or partially situated, as competent to advise the authority about the protection of children from harm.

Our Council designates the Luton Borough Council Safeguarding and Quality Assurance Team.

### **Door Supervisors**

The Gambling Commission's guidance states that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objective of the protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

We will make door supervision a requirement if it is satisfied that there is clear evidence, for example from the history of trading at the premises, that the premises cannot be adequately supervised otherwise and that door supervision is both necessary and proportionate.

Where we impose a condition requiring door supervisors then such personnel will be expected to hold a Security Industry Authority licence unless the premises is a casino or bingo premises (whose in-house door staff do not have to be licensed by the Security Industry Authority).

Where non Security Industry Authority registered door supervisors are required at casino or bingo premises, the council will normally require them to have received training from a recognised provider. This training should normally include the following subjects:

- Licensing Law
- Civil & Criminal Law
- Drug Awareness
- Equal Opportunities and Customer Service
- Children and Vulnerable Adults
- Eviction/ Arrest & searching people
- First Aid
- Door Supervisor Roles/ Procedures and Standards

### **Adult Gaming Centres**

We will expect the applicant to satisfy that there will be sufficient measures to ensure that those under 18 do not have access to the premises.

Appropriate licence conditions may cover issues such as:

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

This list is not exhaustive.

As regards the protection of vulnerable persons, we will consider measures such as the use of provision of information leaflets / helpline numbers for organisations such as GamCare.

In addition, all companies that offer gambling in licensed premises must be part of a multi-operator self-exclusion scheme.

### **Family Entertainment Centres:**

We will expect the applicant to satisfy that there will be sufficient measures to ensure those under 18 years do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

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

This list is not exhaustive.

As regards the protection of vulnerable persons, we will consider measures such as the use of self-exclusion schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

Our council will, in accordance with 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 category C machines should be delineated. Our council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **Casinos and competitive bidding – Small casinos**

We have been granted the power to issue one premises licence for a small casino. The licence has now been granted. We have no power to grant further casino licences.

### **Bingo premises**

The Gambling 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'.

We also note the guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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.

### **Betting premises**

***Betting machines:*** As stated above, when considering whether to impose a condition to restrict the number of betting machines in particular premises, we will, amongst other things, 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 persons.

While we have discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. We will consider limiting the number of machines only where there is clear evidence that such machines have been or are more likely to be used in breach of the licensing objectives. Where there is such evidence, we may consider, when reviewing the licence, the ability of staff to monitor the use of such machines

### **Travelling Fairs**

The act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.

Our council will be 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.

We will also consider whether the applicant falls within the statutory definition of a travelling fair.

The statutory maximum for land to be used as a fair is 27 days per calendar year, regardless of whether one or more travelling fairs occupy the land. We will work with neighbouring authorities to ensure that land which crosses authority boundaries is monitored so that the statutory limits are not exceeded.

## 11. Provisional Statements

A person may apply to our council for a provisional statement in respect of premises:

- they expect to be constructed
- they expect to be altered or
- they expect to acquire a right to occupy

Such applications are dealt with in the same manner as applications for premises licences. Once the premises are constructed, altered or acquired the holder of a provisional statement may apply for the necessary premises licence.

Where the holder of a provisional statement applies for a premise licence, no further representations from responsible 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:

- a. which could not have been raised by objectors at the provisional licence stage
- b. which in the authority's opinion reflect a change in the operator's circumstances
- c. where the premises has not been constructed in accordance with the plan and information submitted with the application. This must be a substantial change to the plan and we will discuss any concerns it has with the applicant before making a decision.

## 12. Reviews

Responsible Authorities and Interested Parties (see definitions in Section 9) may apply to our council for a review of a premises licence. We may reject an application if it thinks that the grounds on which the review is sought do not raise an issue relevant to the principles listed below; are frivolous or vexatious; will certainly not cause us to wish to alter/revoke/suspend the licence; are substantially the same as previous representations or requests for review. The principles referred to above are:

- 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 (subject to the above) and
- in accordance with the authority's Statement of Licensing Policy (subject to all of the above)

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

We may reject an application for review if it thinks the grounds on which the review is sought:

- are not relevant to the code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Statement of Principles
- are frivolous
- are vexatious
- 'will certainly not' cause the council to revoke or suspend the licence or to remove, amend or attach conditions on the premises licence
- Are substantially the same as grounds cited in a previous application for the same premises, although the council will consider the length of time that has passed since the previous application
- Are substantially the same as representations made at the time the application for the premises licence was considered. The council will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the premises licence.

General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.

We will publish notice of a valid application for a review within 7 days of receipt. Representations can be made by responsible authorities and interested parties within a 28 day period starting at the end of the 7 days period.

We will 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 we should take any action in relation to the licence. If action is justified, the options open to our 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 (for example, opening hours) or remove or amend such an exclusion
- c. suspend the premises licence for a period not exceeding three months;
- d. revoke the premises licence

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

In particular, the council may 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, we will notify its decision, as soon as possible, 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 Revenue and Customs

As a review of a premises licence can lead to its revocation, we will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. Our council accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

## 13. Conditions

The majority of premises licences will have mandatory and/or default conditions attached to the licence. These conditions are detailed in the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

Conditions may be attached:

- Automatically under the act or regulations
- By the council

We will not refuse applications for premises licences where relevant representations can be dealt with through the use of conditions. Our council will make decisions regarding conditions on a case by case basis. Conditions attached by us will relate only to gambling. They will be proportionate and:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures we will consider using should there be a perceived need, for example the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. Our council will also expect applicants for licences to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

**NB:** We cannot impose:

- conditions which make it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation
- conditions requiring membership of a club or body
- conditions in relation to stakes, fees, winnings or prizes

We will expect the applicant to propose how the licensing objectives can be met effectively through the use of conditions.

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

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

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

Our 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 Gambling Commission's guidance, we 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.

## 14. Permits

Permits regulate gambling and the use of gaming machines in a premises which do not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

We are responsible for issuing the following permits:

- a. unlicensed family entertainment centre gaming machine permits
- b. alcohol licensed gaming machine permits
- c. prize gaming permits
- d. club gaming permits and club machine permits

In considering applications for the grant of permits, we will have regard to the licensing objectives. In particular, applicants will be expected 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 in relation to suspected truant school children on the premises, dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

In addition to the statutory requirements, as part of any application for a permit we may seek the following in order to ensure that adequate information is provided to enable a proper assessment to be made:

- an up to date enhanced Criminal Record Bureau check
- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited
- details of any other permit held by the applicant in respect of other premises
- the nature of the prizes
- the proposed frequency of prize gaming at the premises
- details of any training and training programme on the limits of stakes, prizes and permissible gambling relating to such permits and
- details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same
- An awareness of local school holiday times and how to contact the local education office should truants be identified

Our council can only grant or reject an application for a permit and cannot attach conditions.

We will accept evidence of compliance with the Codes of Practice issued by the British Amusement Catering Trade Association (BACTA) as supporting evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above requirements. Applicants must submit with their application two copies of plans of the premises, to a scale of 1:100, showing the exits and entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.

### **Unlicensed Family Entertainment Centre Gaming Machine Permits**

This policy applies to those premises that are proposed to be used as unlicensed Family Entertainment Centres (uFEC's). uFEC's are premises primarily used for making gaming machines available that offer only category D gaming machines. A uFEC permit allows any number of these machines to be made available at the premises (subject to other considerations such as health and safety and fire regulations). Given that category D machines have no age restrictions, these premises particularly appeal to children and young persons, therefore, we will give particular weight to matters relating to child protection issues.

Our council will grant an application for a permit only if it is satisfied that the premises are used wholly or mainly for making gaming machines available for use, and following consultation with the police.

We will not grant uFEC permits where the premises are not primarily used for making gaming machines available for use in accordance with section 238 of the Gambling Act 2005. This will preclude granting permits to lobbies in shopping centres or motorway service areas for example.

Applicants for uFEC permits are expected to provide a scale plan of the premises with their application showing entrances/exits, location of CCTV cameras, cash desk, and machine locations as well as other features such as a bowling alley for example or play area which may form part of the premises.

The guidance also states: 'An application for a permit may be granted only if the council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application'.

As unlicensed FECs will not be subject to scrutiny by the Gambling Commission the council will ask applicants to demonstrate

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
- that the applicant has no relevant convictions (as set out in schedule 7 to the act) and

- that staff are trained to have a full understanding of the maximum stakes and prizes
- that problem gambling information will be provided in the premises proportionate to the size and layout of the premises
- that the applicant has a written policy in place to deal with complaints and disputes which can be given to the customer on request
- that staff are trained to recognise problem gaming and signpost a customer to problem gaming information
- that there is no direct access from the uFEC to an AGC or a licensed FEC where adult only gaming machines are provided
- that staff have been trained in how to deal with complaints and disputes in line with the applicants policy

We will expect the applicant to show there are policies and procedures in place to protect children and vulnerable people 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:

- measures and training for staff regarding suspected truant school children on the premises
- measures and training covering how staff will deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises

**NB:** Our council may grant or refuse an application for a permit but cannot attach conditions to this type of permit.

### **Renewals**

Our council 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.

### **(Alcohol) Licensed premises gaming machine permits**

The act provides that premises licensed to sell alcohol for consumption on the premises, are automatically authorised to have 2 gaming machines, of categories C and/or D. The premises merely need to notify us.

This entitlement only relates to premises with a Licensing Act 2003 premises licence that authorises the sale of alcohol for consumption on the premises and which contains a bar at

which alcohol is served without the requirement that alcohol is only sold ancillary to the provision of food.

Licensees siting gaming machines must comply with the relevant Gambling Commission Code of Practice.

Licensees must be aware that gaming machines can only be supplied by a person holding an operating licence from the Gambling Commission enabling them to do this. A register of licensed suppliers can be found on the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

In the event that the relevant authorisation under the Licensing Act 2003 is transferred, lapses or is revoked, the automatic entitlement to 2 gaming machines ceases to have effect and a new notification will need to be served on the licensing authority.

We can remove the automatic authorisation in respect of any particular premises if:

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

### **Permit for 3 or more machines at the premises**

This policy applies to alcohol licensed premises that propose to have 3 or more category C or D gaming machines and must apply to the licensing authority for a permit. The permit will replace the automatic entitlement to 2 gaming machines rather than in addition to it and the holder must comply with the relevant Gambling Commission Code of Practice.

If a premises wishes to have more than 2 machines, it must apply for a permit and we must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Gambling Act 2005, and 'such matters as they think relevant'. Our council will decide what is relevant on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only

gaming machines. The types of measures which may satisfy us 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. Applicants may also wish to consider the use of notices and signage. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

Our 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.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application must be made and dealt with as an application for an Adult Gaming Centre or Family Entertainment Centre premises licence, as the case may be.

If we are not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it may refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.

We may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- a. it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect
- b. gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit
- c. the premises are mainly used or to be used for making gaming machines available
- d. an offence under the Gambling Act 2005 has been committed on the premises

Before we cancel or vary a permit, we will give the permit holder 21 days' notice of our intention and allow him or her the opportunity to make a representation. If the permit holder requests a hearing we will arrange a Licensing Sub-Committee hearing to consider the permit holders representation and any other evidence available before making it determination.

When determining an application for an alcohol-licensed premises gaming machine permit, we will consider each application on its own merits.

## Prize Gaming Permits

This policy applies to applications for, or renewals of, Prize Gaming Permits. Gaming is a 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. Normally the prizes are determined by the operator before play commences.

Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

Given that the premises will particularly appeal to children and young persons we will give weight to child protection issues.

We will ask applicants to set out the types of gaming they intend to offer and will expect applicants to demonstrate that:

- they understand the limits to stakes and prizes that are set out in the regulations and
- that the gaming offered is within the law
- they have clear policies in place that outline the steps they will take to protect children from harm

In making its decision on an application for this permit our council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance, and after consultation with the Police.

It should be noted that there are conditions in the Gambling Act 2005 which the permit holder must comply with, but that we 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

## Club Gaming and Club Machines Permits

Members' Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit which 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. Members' clubs, Miners' Welfare institutes and Commercial clubs may apply for a Club Gaming machine permit which will enable the premises to provide up to 3 gaming machines of categories B, C or D.

**NB:** Commercial Clubs may not site category B3 gaming machines offering lottery games in their club.

Gambling Commission Guidance for local authorities' states: 'A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations. Members' clubs may apply to their local licensing authority for club gaming permits and club machine permits. Particular care should be taken when assessing applications for gaming permits which have been used for illegal poker clubs under the guise of members' clubs. Experience very strongly indicates that taking care at the application stage in robustly checking the credentials of the applicant will save a great deal of time and effort afterwards. If a licensing authority is in any doubt as to the suitability of an applicant they should contact the Commission who will offer the appropriate support, advice and any intelligence that may be available.'

The act states that 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 that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence.

The Guidance also makes it clear that 'Before granting the permit the 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.'

Our council 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 which 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 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 by regulations under s.266 of the Act
- 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.

Our council will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit.

NB: Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purpose of gaming.

## 15. Small Society Lotteries

The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under schedule 11 of the act, including the small society lottery.

## Definition of lottery

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Gambling Act 2005.

An arrangement is a simple lottery

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance

An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance

## Definition of society

A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. Section 19 of the Gambling Act 2005 defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain

It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Participation in a lottery is a form of gambling. Lotteries must be conducted in a socially responsible manner and in accordance with the act.

The minimum age for participation in a lottery is sixteen. The holder of a small society lottery registration must take reasonable steps to ensure that all those engaged in the promotion of their lottery understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

## External lottery managers

External lottery managers (ELM's) are required to hold a lottery operator's licence issued by the Gambling Commission to promote a lottery on behalf of a licensed society.

However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:

- who decides how the lottery scheme will operate
- who appoints and manages any sub-contractors
- the banking arrangements for handling the proceeds of the lottery
- who sells the tickets and pays the prizes
- who controls promotional aspects of the lottery

Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences on its website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

## Lottery tickets

Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets (e.g. there can be no option to 'buy two tickets, get one free')
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the ELM
- the date of the draw, or information which enables the date to be determined

The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

The society should maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The licensing authority may wish to inspect the records of the lottery for any purpose related to the lottery.

## Where tickets may be sold

The licensing authority expects holders of small society lottery registrations not to sell lottery tickets to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be

sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, in order to do this.

## Prizes

Prizes awarded in small society lotteries can be either cash or non-monetary. Prizes declared on returns must not exceed the limits on prizes set out by the act - in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.

Alcohol should not be offered as a prize in a lottery without the society first ensuring that no Licensing Act 2003 consent is required for this from the licensing authority. If such consent is required, then alcohol shall not be offered as a prize unless such consent has been obtained.

## Small society registration

The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. Parts 4 and 5 of schedule 11 of the act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.

The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located.

Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the licensing authority to assess the application. This information shall include a copy of the society's terms and conditions and their constitution to establish that they are a non-commercial society.

Societies may not circumvent the requirement to hold a Gambling Commission Lottery Operating Licence by obtaining two or more registrations with the same or different licensing authorities. As set out previously, the act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.

In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are

the same, this may constitute a breach of the threshold limits for small society lotteries set out in schedule 11 of the act.

By virtue of schedule 11 paragraph 31(5) of the act, societies may not hold an operating licence with the Gambling Commission and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of three years during which a large society cannot convert to small society status.

Registrations run for an unlimited period, unless the registration is cancelled.

## Refusal of registration

The licensing authority may propose to refuse an application for any of the following reasons:

- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years. The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing authorities should consult the Commission as part of their consideration process.
- The society in question cannot be deemed non-commercial
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in schedule 7 of the act
- Information provided in or with the application for registration is found to be false or misleading

The licensing authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The licensing authority shall inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

## Revocation of a small society's registered status

The licensing authority may revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

## Administration and returns

The act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply

with these limits it will be in breach of the act's provisions, and consequently be liable to prosecution.

The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (schedule 11, paragraph 33)
- no single prize may be worth more than £25,000 (schedule 11, paragraph 34)
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (schedule 11, paragraph 35)
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (schedule 11, paragraph 37)

Paragraph 39 of schedule 11 in the act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows licensing authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The following information must be submitted:

- the arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid

Paragraph 39 of schedule 11 in the act also requires that returns must:

- be sent to the licensing authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratchcards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the

purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

The Gambling Commission may inspect a society's returns, although it will not routinely do so. The licensing authority is required to retain returns for a minimum period of three years from the date of the lottery draw. They must also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw. State how the public can view lottery returns and where.

The licensing authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales. The licensing authority must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question. The Gambling Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the licensing authority of the outcome of its exchanges with the society.

Other Gambling queries that commonly arise are ones relating to race nights and poker.

We have included some brief points below to assist in this area, however more information can be found at the link above to the Gambling Commission.

### **Race Nights**

Race nights can be permitted for charitable purposes. However, in some circumstances, they can only be undertaken by a licensed betting operator. Race nights can be run without a licence, or any other form of permission providing the operation of the gaming falls into either a non-commercial lottery, non-commercial prize gaming and/or non-commercial equal chance gaming.

The selection of a 'horse' by a participant is totally dependent on chance, and where no 'odds' or 'form' are available to assist the gamblers selection.

### **Incidental non-commercial lottery**

- Race night is not the only or main purpose of the non-commercial event.
- No limits on the amount of players may be charged to participate
- No more than £500 may be deducted from the proceeds of the lottery for the cost of prizes
- No more than £100 for other expenses.
- Tickets can only be sold at the event
- Results must be announced at the event

### **Non-commercial prize gaming**

- Players must be told what good cause will benefit from the profits of the gaming.

- Prizes must be advertised in advance and must not depend on the number people or the stakes raised
- The ‘race’ determines the individual winner or winners, for example those who have paid are allocated or select a named horse in the race. The winners then are awarded the prizes that were advertised in advance.

### **Non-commercial equal chance gaming**

- The maximum amount that a player may be charged is £8 per day (this includes entrance or participation fees, betting stakes and any other payments in relation to the gaming)
- Organisers must ensure that the amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is allowed.
- Each participant pays a fee for a randomly selected ‘horse’ in each ‘race’ and the participant with the winning horse or chooser of the winning horse receives a prize commensurate the stakes placed. **For the latest advice or guidance factsheets please view the gambling commission pages [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

### **Poker**

The code of practice requires owners/licensees to adopt good practice measures for the provision of gaming in general and poker in particular. The code also sets out the stakes and prizes limits and the limits on participation fees laid out in regulations.

There are limits on stakes and prizes for poker played in those clubs and institutes that do not hold a club gaming permit issued by their local licensing authority. The introduction of these limits reflects significant recent growth in the popularity of poker, and the need to address the particular risks associated with such gaming. The regulations impose a stakes limit of £10 per person per game, within a premises limit of up to £250 in stakes per day and £1,000 per week. The maximum fees that clubs may charge their members for participating in gaming has been set at £1 per day (or £3 if they hold a club gaming permit). Clubs and institutes holding a club gaming permit are also able to provide facilities for specified banker’s games

## **16. Temporary and Occasional Use Notices**

### **Temporary Use Notices**

Temporary Use Notices 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. The Gambling Commission’s Guidance states that premises that might

be suitable for a Temporary Use Notice include hotels, conference centres and sporting venues. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice includes poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. It is for our council to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building or site.

### **Occasional Use Notices:**

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

The meaning of a 'Track' in the act covers not just a horse racecourse or dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place.

## **17. 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 respect to the exchange of information between it and the other persons listed in schedule 6 to the Act:

- A constable or Police force
- An enforcement officer
- A Licensing Authority
- HMRC
- The First Tier Tribunal
- The Secretary of State
- Scottish Ministers

We will act in accordance with the provisions of the act in its exchange of information which includes the provision that the Data Protection Act 2018 and/or General Data Protection

Regulations 2018 (GDPR) will not be contravened. We will also act in accordance with any regulations issued under the act and will have regard to any guidance issued by the Gambling Commission.

## 18. Enforcement

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

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

Our council will endeavour to avoid duplication with other regulatory regimes so far as possible.

We will, as recommended by the Gambling Commission's guidance for local authorities, adopt a risk-based inspection programme.

We have adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

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

Our council will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, our council's enforcement, compliance protocols, and written agreements will be available upon request from the Licensing Service (See Section 21, Useful Contacts). Our risk methodology will also be available upon request.

## 19. Application Process

We will accept applications for premises licences, on the statutory prescribed application form and accompanied by the prescribed fee and supporting documentation.

Applications will be considered in accordance with the delegation of functions table set out in Section 20. It is considered that many of the licensing functions will be largely administrative and where there are no areas of contention, the responsibility for processing any such application shall be delegated to officers.

## 20. Administration, Exercise and Delegation of Functions

Decisions under the Act will be made by our council's licensing committee, which consists of 15 councillors. The licensing committee has delegated its functions to a licensing sub-committee consisting of 3 councillors or to an officer. We have delegated functions under the Gambling Act 2005 in the following way in the interests of speed, efficiency and cost-effectiveness.

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officer</b>
<b>Three Year Licensing Policy</b>	X		
<b>Fee setting (when appropriate)</b>	X		
<b>Application for Premises Licences</b>		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
<b>Application for a variation to a licence</b>		Where representations have been	Where no representations received/

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officer</b>
		received and not withdrawn	representations have been withdrawn
<b>Application for a transfer of a licence</b>		Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
<b>Application for a provisional Statement</b>		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
<b>Review of a premises licence</b>		X	
<b>Application for a club gaming/ club machine permits</b>		Where objections have been made (and not withdrawn)	Where no objections received/ objections have been withdrawn
<b>Cancellation of club gaming/ club machine permits</b>		X	
<b>Applications for other permits</b>			X
<b>Cancellation of licensed premises gaming machine permits</b>			X
<b>Consideration of temporary use notice</b>			X

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Decision to give a counter notice to a temporary use notice		X	

Ward councillors will not sit on a sub-committee involving an application within their ward. Where a councillor who is also a member of the licensing committee or sub-committee is making or has made representations on behalf of an interested party or has a direct involvement in the affairs of an application, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the premises licence. Councillors' conduct is governed by the Code of Conduct for Members set out in the Council's Constitution. This sets out personal and prejudicial interests which a councillor must disclose and the effect of these interests on their ability to vote on a matter. Members of the licensing committee and sub-committee are bound by this code.

Every determination of a licensing decision by the licensing committee or a licensing sub-committee shall be accompanied with clear, cogent reasons for the decision. A copy of the decision, including the reasons will be available for public inspection and will be kept as part of the statutory licensing register. We endeavour to ensure that good practise is maintained in the execution of its licensing committee. It also wishes to ensure that applicants and objectors have a fair hearing. The process of determining licensing applications is broadly administrative in nature. In the absence of specific regulations under the act, the licensing committee will set its own procedure which will comply with the rules of natural justice and the Human Rights Act 1998.

## 21. Integration with other Statutes

### The Equality Act 2010

This act legally protects people from discrimination in the workplace and wider society. This includes the Public Sector Equality Duty (PSED), which means we must thoroughly consider, in the discharge of its licensing functions, the need to:

- Promote equality of opportunity
- Eliminate unlawful discrimination, harassment and victimisation

- Promote good relations

This applies for this policy and to the consideration and determination of applications received under the Licensing Act 2003.

Licensing committee members have undertaken equality and diversity training and will be reviewing their learning on a regular basis to ensure their knowledge and understanding of all matters concerning equality and diversity are at the highest standard to allow them to make decisions.

The Licensing authority will have due regard to the Public Sector Equality Duty in the exercise of all functions under the Gambling Act 2005.

### **Human Rights Act 1998**

This policy incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right. Our council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 1 of the first protocol: Everyone is entitled to the peaceful enjoyment of his or her possessions. It should be noted that the courts have held that a licence is a person's possession
- Article 6, in relation to the determination of civil rights and obligations: Everyone is entitled to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law.
- Article 8: Everyone has the right to respect for one's home and private life, including for example the right to a "good night's sleep"
- Article 10: Freedom of expression.

## **22. Useful Contacts**

### Licensing Service

Licensing Service Manager,

Luton Borough Council,

Town Hall, Luton LU1 2BQ

Tel: 01582 546040

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

Website: [www.luton.gov.uk](http://www.luton.gov.uk)

Gambling Commission

Victoria Square House

Victoria Square

Birmingham

B2 4BP

0121 230 6500

Email: [Info@gamblingcommission.gov.uk](mailto:Info@gamblingcommission.gov.uk)

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

A copy of the Gambling Act 2005 is available from [www.legislation.gov.uk](http://www.legislation.gov.uk)