



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

***Gambling Act 2005***

***Statement of Principles***

Adopted by the Council on XX December, 2012

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## **1. Licensing Objectives under the Gambling Act 2005**

The Gambling Act 2005 (The Act) sets out three clear licensing objectives which are:-

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

This Licensing Authority is aware that, under Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant Codes of Practice under section 24 of the Act
- in accordance with any relevant Guidance issued by the Commission under section 25 of the Act
- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

### **1.1 Introduction**

Hinckley & Bosworth Borough Council will become the Licensing Authority under the Gambling Act 2005. The Council's Geographical area is shown at Appendix C.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of principles to apply when exercising their functions. The statement must be published every three years. This statement will come into effect on the 31<sup>st</sup> January 2013 and will be valid for three years; the statement must also be reviewed from time to time and re-consulted upon. The statement would then be re-published.

### **1.2 Declaration**

The Licensing Authority declares that this Statement of Principles has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005.

This Statement of Principles can be viewed on Hinckley & Bosworth Boroughs website: - [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk)

The policy was approved at a meeting of the Full Council on XXXXX and was published via the Council's website on XXXXX. Copies have been placed within public libraries in the Borough as well as being available at Council Offices.

### **1.3 Consultees on the Statement of Principles**

The Statement of Principles has been subject to formal consultation with:-

1. Leicestershire Constabulary;
2. Representatives of the holders of the various licences for premises within the Borough who will be affected by this Policy;
3. Persons/bodies representing the interests of persons likely to be affected by this policy.

A full list is shown at Appendix A.

### **1.4 Licensing Authority Functions**

The Licensing Authority is required under the Act to:

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

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

Spread betting is regulated by The Financial Services Licensing Authority and the National Lottery is regulated by The National Lottery Commission.

### **1.5 Information exchange**

In fulfilling its functions under sections 29, 30 and 350 of the Act with respect to the exchange of relevant information with other regulatory bodies the Council will establish protocols in this respect. In exchanging such information, the Council will conform to the requirements of the Data Protection Act 1998 in accordance with the Council's existing policies.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

## **1.6 Enforcement**

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

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

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

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

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

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

## **1.7 Responsible Authorities**

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

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

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children's Board in conjunction with Leicestershire Police.

## **1.8 Interested Parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

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

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19 (if the authority does not wish to follow the Gambling Commission's guidance in any respect it is advised to state this in its statement. Note though that decisions on premises licences and temporary use notices must be "in accordance" with Gambling Commission Guidance (Section 153)). It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

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

## **Part 2 – Premises Licensing**

### **2.1 General Principles**

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions as 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.

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

It is appreciated that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a Licensing Authority.

### **2.2 Definition of Premises**

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

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."



This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- 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 any other gambling premises?

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

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

7.25:

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which 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 (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

## **Tracks**

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

## **Bingo Premises**

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

## **Family Entertainment Centre**

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

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

## **Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, 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, this authority 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 this authority 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.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

### **2.3 Location of Premises**

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

### **2.4 Planning**

The Gambling Commission Guidance to Licensing Authorities states:

7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

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

Duplication with other regulatory regimes - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. 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.

## **2.6 Casinos**

There are currently no casinos operating within the Borough.

There is no resolution to prohibit casinos in the Borough at present. However the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

Should the Licensing Authority choose to make such a resolution under section 166 of the Act, this will be a resolution of Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.7 Bingo Premises**

This licensing authority notes that the Gambling Commission's Guidance states:

18.4 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.

This authority also notes the Guidance at paragraph 18.7 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.6 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.

## **2.8 Betting Premises**

Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **2.9 Tracks**

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter. At present there are no tracks within the Borough.

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

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

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

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

## **Gaming machines**

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

## **Betting machines**

This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

## **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

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

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

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

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

## **2.10 Adult Gaming Centre**

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

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

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

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

## **2.11 Family Entertainment Centre**

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

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

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

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

## **2.12 Travelling Fairs**

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

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

## **2.13 Provisional Statements**

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

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

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

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

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



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

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

## **2.14 Reviews**

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

- 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 principles.

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

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

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

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

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

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

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

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

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

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

## **Part 3 - Permits / Temporary & Occasional Use Notice**

### **3.1 Unlicensed Family Entertainment Centres**

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

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.

This Licensing authority will want applications to demonstrate:

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

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

#### **Statement of Principles**

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

### **3.2 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

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

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

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

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

### **3.3 Club Gaming Permits & Club Machine Permits**

The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

Club machine permits allow the provision of no more than three gaming machines. These may be from categories B, C or D. The club is permitted to choose the combination of machines on its premises. The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit. The Authority only refuses an application for a machine permit if the:

- (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.

### **3.4 Prize Gaming & Prize Gaming Permits**

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

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

An application for a permit can only be made by a person who occupies or plans to occupy the premises an individual, must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises.

### **3.5 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. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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

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

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

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **3.6 Occasional Use Notices**

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

## **Part 4- The Licensing Objectives**

### **4.1 Licensing Objectives**

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

#### **4.2 Preventing gambling from being a source of crime and disorder; being associated with crime and disorder or being used to support crime**

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

#### **4.3 Ensuring gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

#### **4.4 Protecting children and other vulnerable persons from being harmed or exploited by gambling – Licensing Objective**

This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

## **Vulnerable Persons**

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

## **5 COMPLAINTS AGAINST PREMISES LICENSED UNDER THE ACT**

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a license to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting. Due consideration will be given to all relevant representations.

## **EQUAL OPPORTUNITIES STATEMENT**

This policy shall take into account the aims of Hinckley & Bosworth Borough Council’s Equal Opportunities Policy which is committed to achieving equality for all by removing direct and indirect discrimination on the grounds of:

- Age
- Gender or transgender identity
- Race, colour, nationality, national or ethnic origin, being a traveller or gypsy
- Disability, including people with a hearing impairment, people with a visual impairment, people with learning disability, people with a mental illness, and people living with HIV and AIDS
- Religious belief or non-belief, or other beliefs
- Marital status, family circumstances, or caring responsibilities
- Sexual orientation
- Income, employment status or housing circumstances
- Membership or non-membership of trade unions, or involvement in trade union activity
- Offending Status
- Any other ground that cannot be shown to be justified



## 6 FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:-

Licensing Service  
Hinckley & Bosworth Borough Council  
Florence House  
St Marys Road  
Hinckley  
LE10 1EQ

Tel: 01455 255645  
Fax: 01455 234590  
E-mail: [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk)  
Website: [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk)

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### APPENDIX A – CONSULTEES ON POLICY

The Licensing Authority has sent copies of the policy to the following to consult on the content of this Statement of Principles:-

- Bingo Association
- Casino Operators Association
- Chief Officer of Police for Leicestershire
- Corals
- Club & Institute Union
- Gamcare
- Gamblers Anonymous
- Help The Aged
- A selection of holders of existing licences, permits and registrations that will be affected by the provisions of the Act.
- Lotteries Commission
- Responsible Authorities
- Responsibility in Gambling Trust
- Age Concern
- Alcoholics Anonymous

## APPENDIX B - TERMS OF REFERENCE

Licensing Objectives:	As defined in Part 4
Licensing Authority	Hinckley & Bosworth Borough Council
Borough:	The area administered by Hinckley & Bosworth Borough Council (Map appended at Appendix C)
Licensing Authority Functions:	Applications for licenses and permits as defined in section 1.4
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Set by the Secretary of State (some set out in the Act) and some to be prescribed by regulations.
Default Condition:	To be prescribed in Regulations made by the Secretary of State to be attached to all classes of premises licence, unless excluded by Hinckley & Bosworth Borough Council
Specific Condition	Conditions that can be attached to an individual premises by the Licensing Authority. (However these conditions cannot prevent compliance with operating licence conditions.)
Responsible Licensing Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"> <li>1. The Licensing Authority in whose area the premises are wholly or mainly situated (HBBC)</li> <li>2. The Gambling Commission;</li> <li>3. The Chief Officer of Police for Leicestershire;</li> <li>4. Leicestershire Fire and Rescue Service;</li> <li>5. The Local Planning Licensing Authority (HBBC)</li> <li>6. A Licensing Authority with functions in relation to pollution of the environment or harm to human health;</li> <li>7. A designated body to advise on the protection of children;</li> <li>8. HM Customs and Excise.</li> </ol>
Interested Party:	For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the license or to which the application is made, the person:- <ol style="list-style-type: none"> <li>a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</li> </ol>

	<p>b) Has business interests that might be affected by the authorised activities;</p> <p>c) Represents persons who satisfy a) or b) above.</p>
Categories of machines	A= Unlimited, B1 = £4000 B2 = £500 B3 = £500 B4 = £250, C = £70, D = £ 5 cash or £ 8 non-monetary prize.

**APPENDIX C**  
**Gambling Act 2005 Scheme of Delegation**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Committee / Sub-committee</b>	<b>Officers</b>
<b>Final approval of the Licensing Authority Statement of Policy</b>	<b>X</b>		
<b>Review of Licensing Policy and Statement of Gambling Principles</b>		<b>X</b>  (Full Committee only)	
<b>Policy not to permit casinos</b>	<b>X</b>		
<b>Fee setting (when appropriate)</b>		<b>X</b>  (Full Committee only)	
<b>Application for premises licences</b>		Where representations have been received and not withdrawn  (Sub-Committee)	Where no representations received / representations have been withdrawn
<b>Application for a variation to a licence</b>		Where representations have been received and not withdrawn  (Sub-Committee)	Where no representations received / representations have been withdrawn
<b>Application for a transfer of a licence</b>		Where representations have been received from the Commission or responsible authority  (Sub-Committee)	Where no representations received from the Commission or responsible authority
<b>Application for a provisional statement</b>		Where representations have been received and not withdrawn  (Sub-Committee)	Where no representations received / representations have been withdrawn

<b>Review of a premises licence</b>		<b>X</b> (Sub-Committee)	
<b>Application for club gaming/club machine permits</b>		Where objections are made and not withdrawn	Where objections are not received or are withdrawn
<b>Cancellation of club gaming/club machine permits</b>		<b>X</b> (Sub-Committee)	
<b>Applications for other permits</b>			<b>X</b>
<b>Cancellation of licensed premises gaming machine permits</b>			<b>X</b>
<b>Applications for small scale lotteries registration</b>		Where objections are made and not withdrawn (Sub)	Where objections are not made or are withdrawn
<b>Consideration of temporary use notice</b>			<b>X</b>
<b>Decision to give a counter notice to a temporary use notice</b>		<b>X</b> (Sub-Committee)	
<b>Determination of vexatious or frivolous representations or representations which will certainly not influence the authority under the 2005 Act</b>			<b>X</b>

## APPENDIX D – MAP OF THE BOROUGH

